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BY: JOHN PAYTON, ESQ.,
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-and-
TIMOTHY FOX, ESQ.,
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ALSO PRESENT:

JOHN J. MULDERIG, III, ESQ.,
Senior Assistant General Counsel
Philip Morris Management Corp.

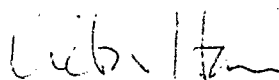
ERRATA SHEET

Corrections or changes to the deposition testimony of:

Victor Han - Volume 1

<u>Page</u>	<u>Line</u>	<u>Correction</u>
39	24	Change "You are re-marking" to "Were we marking"
45	2	Change "the activities" to "their activities"
47	20	Change "24" to "4"
49	8	Omit "Mary"
70	7	Omit "carried"
75	15	Add "But --" after "of that."
93	24	Change "on" to "Han"
98	12	Add "MS. ROBBINS: John, I'm going to take you up on your offer of an extra copy." "MR. PAYTON: The extra copy I had was that -- " "MS. ROBBINS: Oh I see, O.K. I'll look on."
106	19	Change "being" to "having been"
109	2	Change "this" to "that"
118	6	Omit "that is that"
130	25	Insert "is" between "this" and "the"
144	4	Insert "they were" after -- even, before "if he"
144	21	Insert "OK" before "are you saying"
146	4	Add "I" before "I understand"
150	2	Insert "that" before "I received"
150	7	Add "on" after place,
150	7	Add "another "after" before "this e-mail"
150	11	Add "a" after "It was"
150	12	Insert "O.K." and "somebody" before "one of the"
150	17	Insert "OK" before "Do you know"
151	11	Add another "who" before "is"
151	12	Add another "I" after Burnley -- before "I simply know"

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Victor Han

ERRATA SHEET

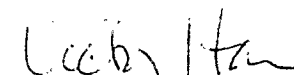
2

Corrections or changes to the deposition testimony of:

Victor Han - Volume 1

<u>Page</u>	<u>Line</u>	<u>Correction</u>
151	22	Insert "may" between "there and might"
152	4	Change "the question" to "your question"
152	11	Add "O.K." before "but the call"
152	11	Add "Legal, get the" after "To get the"
153	4	Add another "you're" before "not giving"
153	7	Add another "that" before "there were"
153	18	After Ms. Robbins: add "Now" -- before "Wait a minute"
153	19	Add "your" and "the" before "the calls"
154	21	Add "I, I" before "don't know"
155	22	Add another "were" before "had and"
156	17	Add another "I" before "want to"
157	6	Add "O.K." before "And is that"
158	12	Insert "Just" before "separate"
158	17	Add "OK" before "There were no"
159	3	Add "was" after "What he"
159	7	Replace "Form" with "From"
159	8	Insert "It would be" before "he would go"
159	12	Add another "To" before "get legal"
159	9	Take out "For", insert "To get" before "legal advise."
160	9	Insert "Now" before "The information"
160	15	Add another "one" before "of the"
160	21	Add "I" before "Did I discuss"
170	21	Add "Well, with that understanding of number 2 -- never mind." before "3 is fax . . ."
172	3	Omit the second consecutive "had" before "at least"

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 Victor Han

ERRATA SHEET

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Corrections or changes to the deposition testimony of:

Victor Han - Volume 1

<u>Page</u>	<u>Line</u>	<u>Correction</u>
173	15	Add "Was it Daragan? It could be the very end of the Daragan deposition." after "to him."
185	10	Change "abstract" to "extract"
198	10	Insert "To be honest," before "I need to take a break."

Victor Han
Victor Han

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SUPPLEMENTAL **ERRATA SHEET**

Corrections or changes to the deposition testimony of:

Victor Han

VOLUME 1		
Page	Line	Correction
15	5	no "it"
21	16	prior, "during" my tenure no "to"
27	18	"believe" instead of "think"
52	5	Should read: I cannot say for sure with any certainty that that's what the article was about
69	24	"now" instead of "know"
70	7	"Shook" instead of "Schick"
77	10	"was" instead of "is"
163	15	"they" instead of "it"
178	8	"became" instead of "came"
185	10	"extract" instead of "abstract"
188	18	"heard" instead of "her"

Victor Han

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1
2 THE VIDEO OPERATOR: This is the
3 video operator speaking, Russell Finz, of Action
4 Legal Video, 132 Nassau Street, New York, New
5 York. We are here on this day, March 16, 1995,
6 at the time continuously recorded on the
7 videotape, at the offices of Proskauer Rose Goetz
8 & Mendelsohn, 1585 Broadway, New York, New York,
9 to take the videotaped deposition of Victor Han,
10 on behalf of the defendants, in the matter of
11 Philip Morris Companies, Incorporated, et al,
12 versus American Broadcasting Companies,
13 Incorporated, et al, in the Circuit Court for the
14 City of Richmond, Virginia, John Marshall Courts
15 Building, At Law No. 760CL94X 00816-00.

16 Will counsel please introduce
17 themselves.

18 MR. PAYTON: John Payton for
19 defendants ABC, Walt Bogdanich and John Martin.

20 MS. ESPOSITO: Denise Esposito, also
21 for defendants.

22 MR. FOX: Tim Fox, for defendants.

23 MS. ROBBINS: Barbara Robbins,
24 Wachtell Lipton Rosen & Katz, for plaintiffs.

25 MR. BOOKER: Louis T. Booker, Hunton

1
2 & Williams, for the plaintiffs.

3 MR. MULDERIG: John Mulderig, for the
4 plaintiffs.

5 THE VIDEO OPERATOR: Will the
6 reporter please swear the witness.

7 V I C T O R H A N,
8 residing at : [DELETED]

9 having been first duly sworn by the
10 Notary Public (Jack Finz), was examined and
11 testified as follows:

12 EXAMINATION BY MR. PAYTON:

13 Q. Mr. Han, could you tell me your
14 present title?

15 A. My title is director of
16 communications, world regulatory affairs.

17 Q. And is that a new position?

18 A. Relatively so, yes.

19 Q. How recent?

20 A. About ten months.

21 Q. What does world regulatory affairs
22 mean?

23 A. That has to do with regulatory issues
24 that exist for our company on a worldwide basis.

25 Q. Does that mean that other

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MANHATTAN REPORTING CORP.

1 | Han

2 communications functions in Philip Morris work
3 through you, report to you?

4 A. No. Other functions? I'm sorry.

5 MS. ROBBINS: I object to the form of
6 the question.

7 Q. I'm trying to understand what the
8 relationship is between world regulatory affairs
9 and its communication department, and the media
10 programs division, for example.

11 A. Oh, I see. Well, it has to do with
12 the issues that are dealt with, and there are
13 certain sets of issues that are handled by the
14 world regulatory affairs, all having regulatory
15 impact, and those are the issues that I would
16 handle from a communications standpoint.

17 Other departments in Philip Morris
18 U.S.A., for example, would handle issues relating
19 to the business, which is not something that I
20 would do, for example.

21 Q. Is your position not just a new
22 position for you but a new position, just
23 created?

24 A. It was a new position created
25 approximately ten months ago, nine, ten months

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1 Han

2 ago.

3 Q. And prior to that, what was your
4 position?

5 A. Director of communications, Philip
6 Morris U.S.A.

7 Q. And how long had you been in that
8 position, director of communications, Philip
9 Morris U.S.A.?

10 A. Two and a half years, approximately.

11 Q. And prior to that, what was you
12 position?

13 A. I was an executive vice president at
14 Burson Marsteller, public relations firm.

15 Q. Just so I can keep track of the
16 timeline, when did you leave Burson Marsteller to
17 go to Philip Morris?

18 A. August 1991.

19 Q. And how long were you at Burson
20 Marsteller?

21 A. 16 years. Yes.

22 THE VIDEO OPERATOR: It is 9:53, and
23 we are off the record.

24 (Discussion off the record.)

25 THE VIDEO OPERATOR: Back on the

1 Han

2 record. It is 9:54.

3 Q. When you were at Burson Marsteller,
4 were you responsible for some or all of the
5 Philip Morris account?

6 A. I was responsible for some of the
7 Philip Morris account.

8 Q. And what was Philip Morris'
9 relationship with Burson Marsteller?

10 A. Burson Marsteller was one of Philip
11 Morris' public relations firms.

12 Q. Burson Marsteller is a public
13 relations company?

14 A. Firm, yes, sir.

15 Q. And what did it do for Philip Morris?

16 A. Its primary work had to do with media
17 relations, some employee communications.

18 Q. Does it still work for Philip Morris?

19 A. Yes, it does.

20 Q. And what was your role in handling
21 the Philip Morris account?

22 A. I was the senior person on the Philip
23 Morris account based in New York City.

24 Q. And what did that mean as far as what
25 you did for Philip Morris?

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Han

A. I helped out Philip Morris with certain media relations issues, as time went on, crisis prep, crisis simulation, crisis management, communications management. There was not a clear distinction between my role and the role of the office in Washington, D.C. We worked basically as a team, and I was the one in New York City.

Q. The office in Washington, D.C., is the Philip Morris office or the Burson Marsteller office?

A. The Burson Marsteller office.

Q. How long were you working on Philip Morris-related issues when you were at Burson Marsteller?

A. I first began working on Philip Morris in 1986. It did not require a hundred percent of my time at that point. Subsequently, it did.

Q. In the later years, it did?

A. Even there it was not a hundred percent, but it was a significant chunk.

Q. When you were at Burson Marsteller, did you do work for any other tobacco companies?

1 Han

2 A. No, sir, I did not.

3 Q. Any work in connection with the
4 Tobacco Institute, or tobacco-related entities
5 like the Tobacco Institute?

6 A. No, I did not. Let me -- there was
7 one period of time where Philip Morris was my
8 client but I was part of a group that did involve
9 other tobacco companies having to do with public
10 relations. But they were not my clients.

11 Q. And in your representation of Philip
12 Morris from 1986, and I guess increasing up to
13 1991, did you become knowledgeable about the
14 tobacco industry, cigarette-making, issues like
15 that?

16 A. To some degree, yes.

17 Q. Was that incidental or central to the
18 work you did for Philip Morris?

19 A. As far as manufacturing and such, it
20 was more incidental.

21 Q. So that would just be knowledge that
22 you just gathered along the way, but you didn't
23 need to learn it to do what you were doing for
24 Philip Morris?

25 A. That's correct.

1 Han

2 Q. Did you ever attend any seminars at
3 Philip Morris on cigarette-making?

4 A. Not during my tenure at Burson
5 Marsteller, no.

6 Q. Did you ever visit any of the Philip
7 Morris production facilities when you were at
8 Burson Marsteller?

9 A. I don't think that I did.

10 Q. Now, your position in
11 January-February 1994, director of
12 communications, was for Philip Morris U.S.A.?

13 A. That's correct.

14 Q. Did you have any relationship with
15 Philip Morris Companies?

16 A. Only in the sense that there was a
17 cooperative effort in most cases with the public
18 relations people in that area. I participated in
19 work involving media relations surrounding the
20 annual meeting, which is technically Philip
21 Morris Companies, Inc.

22 Q. When you did work at Burson
23 Marsteller, did you have to sign a
24 confidentiality agreement?

25 A. At Burson Marsteller?

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1 Han

2 Q. Yes, to work for Philip Morris.

3 A. Sorry. You mean a Philip Morris
4 confidentiality agreement?

5 Q. Yes, I'm sorry, a Philip Morris
6 confidentiality agreement.

7 A. I believe that that confidentiality
8 agreement was part of our contract or letter of
9 agreement with Philip Morris.

10 Q. And you did -- I see. So part of the
11 representation of Philip Morris required Burson
12 Marsteller to have a confidentiality agreement?

13 MS. ROBBINS: You asked him whether
14 it required him to.

15 MR. PAYTON: I know, and I thought he
16 answered on behalf of his company. That's why --

17 A. That's correct, I was answering on
18 behalf of the company. I did not sign -- to my
19 recollection, I did not sign the letter of
20 agreement. Someone else signed it. But
21 obviously it was binding to everybody who worked
22 there.

23 Q. And there was an undertaking in the
24 letter of agreement with regard to
25 confidentiality?

Han

A. Yes.

Q. Have you ever been deposed before?

A. No, sir.

Q. Lucky you.

Have you ever testified at trial?

A. At a hearing, but not at a trial.

Q. What was the hearing about?

A. It was a landlord-tenant dispute. I was the tenant.

Q. This is the first time you have given, aside from the landlord-tenant dispute, testimony under oath?

A. Yes, sir.

Q. And do you have a confidentiality agreement with Philip Morris?

A. I believe I do.

Q. Do you know when you would have entered into it?

A. It would have been at the start of my employment at Philip Morris.

Q. And do you know what the terms of the confidentiality agreement are?

A. Only generally. I'm not familiar with the specifics of it. But it would have to

MANHATTAN REPORTING CORP.

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1 Han

2 do with confidential information I've obtained
3 while working for the company, and the use of
4 that information with people outside of the
5 company.

6 Q. And you signed it one time and it's
7 continuing in effect, as far as you know?

8 A. As far as I know, yes, sir.

9 Q. Yesterday an issue as to the
10 relationship between that type of confidentiality
11 agreement, that Philip Morris has with, I take
12 it, a number of its employees, and testimony in
13 depositions, like your deposition right now, came
14 up, and I'm going to paraphrase what you said --

15 MS. ROBBINS: I'm happy to say it
16 again.

17 MR. PAYTON: That's fine.

18 MS. ROBBINS: As I said yesterday
19 with respect to Ms. Daragan, and as I have
20 advised Mr. Han, he should in no way feel that
21 any of the answers that he gives here today are
22 in any way limited or constrained by any
23 confidentiality order that he signed. I have
24 explained to him that we have a stipulation and
25 protective order in this case, that if he is

1 Han

2 going to speak about confidential information or
3 trade secret information, the record will be
4 protected, and all of his answers should not in
5 any way be limited by a confidentiality agreement
6 that he might have signed with Philip Morris.

7 MR. PAYTON: Okay.

8 Q. Could you go into your educational
9 background, just briefly? Did you go to college?

10 A. Yes. I attended Hamilton College,
11 received a bachelor's degree in French
12 literature. Attended Boston University for one
13 semester in graduate studies. And actually
14 previous to that, graduate school in history at
15 NYU.

16 Q. You have an undergraduate degree?

17 A. Yes, sir.

18 Q. Any postgraduate degrees?

19 A. No, sir.

20 Q. Do you have any specific training in
21 communications or public relations or any
22 related --

23 A. You mean from an academic
24 standpoint?

25 Q. Yes.

1 Han

2 A. No, sir.

3 Q. And what was your first full-time
4 employment after college?

5 A. I was an account executive at a Hill
6 & Knowlton.

7 Q. When did you graduate from college?

8 A. 1972.

9 Q. And Hill & Knowlton is also a public
10 relations company?

11 A. Yes, sir.

12 Q. And how long were you at Hill &
13 Knowlton?

14 A. A year and a half.

15 Q. Did you do any work for any tobacco
16 companies?

17 A. No, sir.

18 Q. Where did you go after Hill &
19 Knowlton?

20 A. That's when I went through graduate
21 school.

22 Q. And how long were you in graduate
23 school?

24 A. A total of two years -- just a
25 second. Almost three years.

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Han

Q. And after graduate school -- what year are we in, do you know?

A. 1975.

Q. 1975. What was your next employment?

A. At Burson Marsteller, in New York.

Q. And you started there as an account executive?

A. Probably an assistant account executive.

Oh, there was one other employ that I had for one year. I was a senior speechwriter at NYNEX the first year of the AT&T divestiture. Then I returned to Burson Marsteller.

Q. Did you prepare for today's deposition?

A. Yes, sir.

Q. What did you do?

A. I met with my attorneys.

Q. Did you talk to any persons who work at Philip Morris?

A. I had no discussions with them. Obviously, I told people that I was being deposed, but that was the limit of the conversation.

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Han

Q. And did you review any documents?

A. Yes, sir.

Q. Do you recall what you reviewed?

A. With my attorneys, I reviewed the complaint, some E-mails, memos, press statements.

Q. Did you review your notes?

MS. ROBBINS: You mean handwritten notes? Do you mean -- can you be more specific?

MR. PAYTON: Yes.

Q. We had produced to us in discovery a collection of notes from a notebook that I believe are your notes. Did you review those?

A. I reviewed a notebook, yes, my notebook.

Q. Did you review what was produced to us or did you review your entire notebook?

MS. ROBBINS: I don't understand your question.

MR. PAYTON: What was produced to us had numerous redacted pages.

Q. I am asking if you looked at the materials that we received, or did you actually look at your original notebook.

A. Both.

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1 Han

2 Q. Did you review anybody else's notes?

3 MS. ROBBINS: Handwritten notes?

4 MR. PAYTON: Yes.

5 A. The only one that I can think of is
6 two handwritten notes or two pieces of paper with
7 handwritten notes by Mr. Bogdanich.

8 Q. When you were the director of
9 communications, how large was the staff that was
10 under you?

11 A. You mean in Philip Morris U.S.A.?

12 Q. Yes, in Philip Morris U.S.A.

13 A. I had a staff of four, not including
14 secretaries, I believe.

15 Q. I'm going to show you, just to help
16 me, and help you go through how it was organized,
17 a flow chart that was produced to us that I
18 believe is a flow chart for the director of
19 communications, Philip Morris U.S.A.

20 A. Okay.

21 Q. I'm not sure I have other copies, but
22 I'm going to show it to you. It does not have
23 all the appropriate people for this time period
24 in it, because it is from another period, but I
25 think it will help us.

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Han

MS. ROBBINS: These documents spoke of the January-February 1994 time period.

MR. PAYTON: Okay.

Q. Were you the director of communications --

MS. ROBBINS: Are you going to mark this?

MR. PAYTON: I don't know yet. I don't know yet. I'm going to use it to help him help me in asking these questions. I'm not sure I have enough copies, is the problem. So at the end I may mark it.

Q. You were the director of communications in January-February 1994; is that right?

A. Yes, sir.

Q. Is this a chart that depicts the office that you headed?

A. At that time?

Q. Yes.

A. No, sir.

MR. PAYTON: That's why I'm just going to use it, because it doesn't have his name in it.

MANHATTAN REPORTING CORP.

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Han

Q. Does this chart actually accurately portray the organization of the office when you were the director?

A. No, sir.

MS. ROBBINS: Just for the record, if you could read in the Bates stamp number, so we will know what document we are talking about.

MR. PAYTON: I'm asking some questions about the number marked PA 258123.

Q. What's the difference between this chart and how the organization was in January-February 1994?

A. The two managers -- I had two managers reporting to me, and the specialist and the coordinator reported to one of the managers.

Q. So it shows director of communications, and then under that, on the right, it shows manager media programs, and in January-February 1994 there would have been two managers --

A. Another manager.

Q. Another manager. Was there a subdesignation, another manager of media programs, or just another manager?

MANHATTAN REPORTING CORP.

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1 Han

2 A. Manager-communications.

3 Q. And was the manager of media programs
4 at that time Karen Daragan?

5 A. Yes, sir.

6 Q. And who was the other manager?

7 A. Jack Lenzi.

8 Q. And underneath both of them, the
9 organization would have showed the specialist
10 media affairs, Tara Carraro?

11 A. Yes, reporting to Karen Daragan.

12 Q. And was there a manager media
13 affairs -- there is a second one on this chart.
14 Was there a second one at that time?

15 A. That position was the position that
16 was held by Jack Lenzi prior to my tenure, and so
17 obviously they have restructured since I've
18 departed.

19 Q. I see. So if I understand this, it
20 would have gone director of communications,
21 yourself --

22 A. With two managers reporting to me.

23 Q. And the underneath manager media
24 programs, and then a manager --

25 A. They call it manager media affairs,

MANHATTAN REPORTING CORP.

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1 Han

2 both reporting to me, with the specialist and
3 coordinator reporting to one of the managers, and
4 in this case, back a year ago, to Karen Daragan.

5 Q. And was Brendan McCormick, who is on
6 this box as the coordinator, was he then the
7 coordinator or was he an intern?

8 A. I believe he was an intern at that
9 time.

10 Q. Was there a coordinator?

11 A. He fulfilled that role.

12 Q. What's the other side of the
13 organization do, director editorial services?
14 Was that present when you were the director of
15 communications?

16 A. Yes, it was. They are writers.

17 Q. They write? For what purpose do they
18 write?

19 A. They write speeches, they write
20 letters, they write communications to employees,
21 they write presentations, they write
22 communications to consumers.

23 MR. PAYTON: I will mark this as Han
24 No. 1.

25 EXB (Han Exhibit 1 for

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1 Han

2 identification, organization chart.)

3 MS. ROBBINS: That's one page, and,
4 Denise, what you have handed me is three pages.

5 MS. ESPOSITO: It's one of those
6 three pages.

7 MS. ROBBINS: Do you want to mark the
8 whole thing, John, or you just want to mark this
9 page?

10 MR. PAYTON: Actually, this is just
11 fine.

12 Q. How were files maintained in the
13 office when you were the director of
14 communications?

15 A. Could you explain what you mean by
16 maintained?

17 Q. Were there central files?

18 A. There were central files, and there
19 were personal files.

20 Q. Did everyone have a computer?

21 A. Yes.

22 Q. And --

23 MS. ROBBINS: I take it you are
24 talking about the people in his group, the people
25 he described to you?

Han

MR. PAYTON: Yes. That's all I'm talking about.

Q. And I understand that there was a computer network, and that the computers were organized on a network; is that correct?

A. Yes.

Q. And was there a central storage system for the network, that is, were files stored to a central database?

A. That I don't know.

Q. Were the computers also connected via electronic mail?

A. Yes.

Q. You say there were central files and personal files. Who was responsible for the central files?

A. The central files were -- actually at the time there was another intern on my staff, and it was she who maintained these central files. The central files were primarily news clippings.

Q. Who was the intern?

A. Joan Cryan.

Q. Can you spell that?

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Han

A. C-r-y-a-n.

Q. The central files were primarily news clippings; is that what you said?

A. Primarily news clippings. I call them central files because it's something that anybody would dip into when necessary. But, I mean, we did not characterize them as such.

Q. Were you aware that ABC had made certain requests for documents on Philip Morris in this lawsuit?

A. Yes, sir.

Q. How did you become aware of that?

A. An attorney told me.

Q. And were you asked to search any of your personal files in connection with identifying documents that were being sought?

A. I was asked to provide documents.

Q. And did you search your files?

A. No, sir. I opened up my file drawer and told the lawyers to take what they wanted.

Q. And that was -- did you take your personal files with you when you changed positions ten months ago?

A. Some.

1 Han

2 Q. And it's the files that you took with
3 you that you opened up to the lawyers?

4 A. No, sir. These files were on the
5 14th floor. This was before I changed positions
6 and changed offices. Everything was in one
7 place.

8 Q. Were you also shown interrogatories,
9 questions that ABC had asked of Philip Morris in
10 connection with this lawsuit?

11 A. I saw some.

12 Q. And were you asked to help provide
13 some of the answers to some of those questions?

14 A. Yes, sir.

15 Q. Do you remember any of the questions
16 you provided answers to?

17 A. I don't recall right now, no, sir.

18 MS. ROBBINS: If you want to show him
19 something, John, you are welcome to.

20 MR. PAYTON: No. We will come to
21 that, I guess. I will wait on that.

22 Q. Since you have been working at Philip
23 Morris, since 1991, have you become more
24 knowledgeable about the tobacco industry, or is
25 your role similar to what it was at Burson

1 Han

2 Marsteller?

3 A. No, I have become more knowledgeable.

4 Q. And are there direct things that you
5 have done to become more knowledgeable? Have you
6 attended seminars, or symposia, or sessions that
7 Philip Morris has held for executives or others
8 about --

9 A. Oh, yes, I have. I mean, there were
10 conferences that were held on the state of the
11 business, which I attended, and I learned more
12 just by being an attendee. And taking tours of
13 two of the facilities.

14 Q. Which facilities did you tour?

15 A. The Richmond facility and the
16 Louisville facility -- I'm sorry, the Cabarrus
17 facility. I'm trying to recall if I toured the
18 Louisville facility. I don't think I have.

19 Q. The Cabarrus facility is in North
20 Carolina?

21 A. North Carolina, yes, sir.

22 Q. And do you now consider yourself
23 fairly knowledgeable about cigarette-making?

24 A. From a layman's standpoint, I
25 probably know more than the man in the street,

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1 Han

2 but I'm certainly no expert.

3 Q. It's pretty complicated stuff?

4 A. Actually, conceptually different --
5 conceptually simple, but from a mechanical and
6 engineering standpoint, yes, very complicated.

7 Q. When you said you visited the
8 Richmond facility, was that separate from the
9 trip I understand you took with members of the
10 press to walk through the Richmond facility, I
11 think summer of '94?

12 A. Yes. I had a tour of the facility
13 soon after I began working at Philip Morris. It
14 was a relatively extensive tour, but not nearly
15 as extensive as the tour that we have provided
16 since then to some members of the media, and what
17 I understand to be the tour that was provided to
18 the FDA.

19 Q. You didn't go on the tour with the
20 FDA?

21 A. No, sir.

22 Q. Did someone from your office?

23 A. My office?

24 Q. From the division, communications
25 division.

Han

A. No, sir.

Q. Now, when you began at Philip Morris as the director of communications, were there in place general procedures for how to respond to press inquiries?

A. Procedures -- there were certainly procedures that were in place.

Q. Can you just describe how you were supposed to handle a press inquiry, how the --

A. Generally speaking, an inquiry will come in. For the most part, it is received by a secretary. I learned very early on not to answer my own phone, because every time I did there was somebody trying to sell me something.

The secretary would convey the information she got, which was generally the name of the reporter, general subject matter, the publication, the deadline, to one of the junior staff members, who would then call the reporter back to get more details, to confirm the deadline, and to try to get specific questions.

Q. How would you make sure that the staff persons would know the answers or know who to call for the answers?

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1 Han

2 A. After speaking to the reporter, the
3 staff person would communicate that information
4 verbally or by E-mail, generally both, but always
5 with E-mail after a certain short point, and
6 based on that information I would decide, working
7 with other people, who it was that would be
8 speaking to the reporter, and generally the area
9 we thought that the reporter was looking for.
10 And sometimes we would gather the information
11 from people who had more knowledge about certain
12 issues and would respond to a reporter's
13 questions ourselves.

14 Q. You would gather more information
15 from inside Philip Morris?

16 A. Yes, sir.

17 Q. Any written guidelines about how to
18 handle press inquiries?

19 A. The only written guidelines that I am
20 aware of are those that are given to temporary
21 secretaries who come in, so they know what to do
22 when a phone call from a reporter comes in.

23 Q. That's just sort of a who's who and
24 what's what?

25 A. It's partially that, and if a

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1 Han
2 reporter calls, this is what you do.

3 Q. Were there general procedures with
4 regard to coordination, with respect to press
5 inquiries, with other tobacco companies?

6 A. No, there was not at that time.

7 Q. Was there a practice about how to
8 coordinate with other tobacco companies in
9 connection with press inquiries?

10 A. No, sir, there was not at that time.

11 Q. Did you develop procedures?

12 A. Up to a certain extent, I did.

13 Q. Okay. What were they?

14 A. I would, depending upon the
15 situation, depending upon the type of inquiry, I
16 would contact RJR, my counterparts at RJR, to
17 find out if they had received a similar inquiry,
18 to find out whether or not the information they
19 had was the same as ours. And sometimes it is
20 and sometimes it's not.

21 Q. And for practical purposes, is RJR
22 the most significant counterpart that you paid
23 attention to?

24 A. It is the only tobacco company that I
25 had communications with.

Han

Q. Who was your counterpart?

A. Primarily Maura Payne Ellis and Peggy Carter.

Q. Where were they located?

A. Winston-Salem.

Q. Did you ever get together to talk about things?

A. We did on a couple of occasions.

Q. Was that on specific occasions to deal with a specific issue, or did you just get together to kind of talk over things?

A. No, to deal with specific issues.

Q. Are there any communications-related professional organizations for the tobacco industry?

A. An association, for example, is that what you're talking about?

Q. Yes.

A. There's the Tobacco Institute in Washington, D.C.

Q. But does it do anything separate and special for communications problems that arise?

A. They have their own communications department, and obviously they are frequently

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Han

called by the media, and they can respond on behalf of the industry when the issue at hand is an industry issue as opposed to an individual company's issue.

Q. Who can be a member of the Tobacco Institute? Do you know?

A. I have an assumption, but if you're asking me do I know specifically who can be, I can't.

Q. I'm asking this: Is it tobacco companies, is it individuals? Are you a member?

A. No, sir, I'm not. Philip Morris is a member. And the members that I know of are the tobacco manufacturers in the United States, the major ones.

Q. Do you attend functions sponsored by the Tobacco Institute?

A. I don't think I have.

Q. Did the communications department have a working relationship with the Tobacco Institute?

A. Yes.

Q. And what was that?

A. Well, again, when there was an

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Han

industry issue, an issue that applied to the entire industry and did not apply specifically to Philip Morris, then we would ask the TI to respond on behalf of the industry.

Q. Would you pretty regularly refer reporters to the Tobacco Institute?

A. With some good degree of regularity, yes, sir.

Q. What's the Council for Tobacco Research?

A. The Council for Tobacco Research is a funding organization for scientific research.

Q. Does Philip Morris have a relationship with the Council for Tobacco Research?

MS. ROBBINS: I object to the form of the question. I don't know what you mean by relationship.

Q. Do you know if Philip Morris has any relationship to the Council for Tobacco Research?

MS. ROBBINS: I object.

A. I believe so.

Q. What is it?

1 Han

2 A. I could not -- I would not -- I could
3 not be specific about it. I would not know the
4 specifics.

5 Q. Do they fund it?

6 A. Again, I'm not certain about that.

7 Q. Do you know what the Batelle Memorial
8 Institute is?

9 A. No. Batelle, B-a-t-e-l-l-e?

10 Q. That's correct.

11 A. I don't know what it is. I've heard
12 of it.

13 Q. Did you do training of personnel when
14 you were the director of communications? The
15 time period I'm talking about is for the fall of
16 '93 and through '94.

17 A. I've participated in media training
18 throughout my tenure at Philip Morris.

19 Q. So you were trained?

20 A. No, sir, I was not.

21 Q. But you made sure your staff was
22 trained?

23 A. And others.

24 Q. Did you have an actual program to
25 make sure that the people that worked for you

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1 Han
2 received some type of training in public
3 relations or media or communications?
4 A. For example, classes, or seminars,
5 and such?

6 | 0. Yes.

7 A. No, I did not have a program. They
8 were free to request to attend some of those,
9 should there be a course or class they saw that
10 was of interest to them.

11 Q. Did you have regular staff meetings?

12 A. They were not regular, but I did have
13 some staff meetings.

14 Q. Did you have staff meetings when an
15 issue arose that you thought required a staff
16 meeting?

17 A. No, sir, not that type of staff
18 meeting, no. I wouldn't call those staff
19 meetings.

20 | Q. That's just a meeting?

21 A. That's just come into my office and
22 let's talk about this.

23 Q. Was there a reason you didn't have
24 the staff meetings?

25 | A. I have a small department. They were

1 Han

2 all around. We talked all the time.

3 Q. So it was just unnecessary?

4 A. For the most part -- not everybody on
5 my staff agreed with that, but for the most part
6 I felt it was not as necessary as it was for a
7 large department that would have been spread
8 out. Certainly when we did have staff meetings,
9 the purpose was to make sure everybody understood
10 what everybody was doing and the projects that
11 were on the table and the progress that was being
12 made.

13 Q. How large is your staff now?

14 A. I have four professionals on my staff
15 now.

16 Q. It's about the same size?

17 A. Yes, sir.

18 Q. You said that a press inquiry would
19 almost always result in an E-mail --

20 A. Actually, soon after I got there I
21 believe every single press inquiry resulted in an
22 E-mail.

23 Q. Now we have an E-mail, and it goes
24 to -- who does the E-mail go to? Who gets
25 advised via the E-mail?

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1 Han

2 A. Generally speaking, it would be the
3 members of my department, so that we all knew
4 what was happening. Depending upon the issue, we
5 would also include other members of the company
6 if they had -- if we believed that they had
7 reason to either know about it or provide
8 information regarding the inquiry.

9 Q. And you would then make a decision
10 about who would be responsible for then following
11 up on the press inquiry?

12 A. Not necessarily. There were a lot of
13 inquiries that would come our way that I would
14 see, that I would know would be taken care of
15 without my intervention.

16 Q. What's the media affairs activity
17 report?

18 A. That is simply a listing, I believe
19 in chronological order, of the media calls that
20 were received in a given month, and the action
21 that was taken.

22 Q. Was that a report that was being
23 generated before you were the head of the
24 department, or did you --

25 A. I do not know. I can't recall

1 Han
2 whether we started that or not.

3 Q. Were there any other regular reports
4 that your office generated with respect to media
5 inquiries?

6 A. On a regular basis, not that I can
7 think of.

8 Q. When did you first hear that Day One
9 was working on a story that related to the
10 tobacco industry and potentially Philip Morris?

11 A. I can't tell you the exact date, but
12 certainly I learned about it the first time they
13 called us.

14 Q. Do you recall if you may have learned
15 about it from someone at RJR before they called
16 you?

17 MS. ROBBINS: The "they" being Day
18 One?

19 MR. PAYTON: Yes.

20 A. That's not how I recall the
21 situation.

22 MR. PAYTON: I want this marked as
23 Han 2.

24 MS. ROBBINS: You are re-marking
25 exhibits at each deposition with a name and a new

1 Han

2 number?

3 MR. PAYTON: Yes.

4 EXB (Han Exhibit 2 for
5 identification, ten-page document, collection of
6 E-mails, production number 2024015018B.)

7 Q. Mr. Han, we have marked as Han
8 Exhibit 2 a collection of E-mails. Is this one
9 of the documents that you reviewed in preparation
10 for this deposition?

11 MR. PAYTON: And I will just identify
12 it for the record. It is a document that we
13 received in this form Tuesday afternoon, and it
14 has a number 2024015018B, and it is a ten-page
15 document.

16 MS. ROBBINS: And it is not, but it
17 should be stamped on every page "Confidential."
18 It was only stamped on certain pages.

19 A. Yes.

20 Q. Do you know how this document was
21 created, generated, put together?

22 MS. ROBBINS: You mean compiled in
23 the form that it's compiled in?

24 MR. PAYTON: Yes.

25 A. No, sir.

1 Han

2 Q. If you turn to page 5 -- and if I can
3 just explain a little bit. What I intend to do,
4 Mr. Han, is simply to go through the E-mails as a
5 means of refreshing your recollection and getting
6 a timeline, and try to have you recollect exactly
7 what happened when you learned various things
8 about the Day One story.

9 A. Okay.

10 Q. The document is not in chronological
11 order. Things are kind of mixed in here and
12 jumbled up. So I have asked you to go to page 5,
13 because page 5 contains what I understand to be
14 the earliest E-mail in this series of E-mails.
15 It is the one right in the center of the page.
16 It says, from Shirley Arnott on Friday, February
17 4. Do you see that?

18 A. Yes.

19 Q. To, and then a long list of persons
20 that this was copied to.

21 A. Yes.

22 Q. "Mr. Dogdanich," it should be
23 Bogdanich, "is doing a story about nicotine." Do
24 you see that?

25 A. Yes.

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1 Han

2 Q. Do you recall receiving this?

3 A. No, sir, I do not. That's not to say
4 that I didn't, but I don't remember.

5 MS. ROBBINS: You don't recall one
6 way or the other?

7 THE WITNESS: I don't recall one way
8 or the other.

9 Q. Do you know all the people in the
10 "To" line?

11 A. On the 2 line?

12 Q. Yes.

13 A. Oh, the "To"? Sorry. Excuse me.
14 Yes, I do.

15 Q. Who is Patty Wells?

16 A. I believe Patty Wells is a secretary
17 in Richmond.

18 Q. And Karen Whitley?

19 A. Also a secretary, but I'm not
20 certain. I believe she is also in Richmond, a
21 junior person of some sort.

22 Q. Is this number of persons in the "To"
23 line a usual number of persons to be sent an
24 E-mail like this just for a press inquiry?
25 Because there's a lot.

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1 Han

2 MS. ROBBINS: I'm going to object to
3 the form of your question. You have lots of
4 other E-mails here with "To" lines that are
5 different from this.

6 MR. PAYTON: I understand that.

7 A. I can't say if it's a lot or not.
8 What has occurred here is that my department has
9 been carboned and members of other communications
10 departments in the Philip Morris U.S.A. system
11 have also been copied.

12 Q. Who represents other communications
13 departments here?

14 A. Ed Beauchemin, or the first name is
15 Beauchemin, is --

16 Q. None of us get that one right.

17 A. I know. He doesn't, either. He is
18 in Cabarrus.

19 Q. He is in North Carolina?

20 A. Yes.

21 Q. And that's the communications
22 department?

23 A. Well, there I believe it's termed
24 community relations.

25 Q. And who else is from another --

Han

A. Judy Jones. Again, community relations in Richmond. Arthur Mallory, same. Ellen Merlo is my boss at this time. Mary Ellen Moore is my secretary. Beth Morris, Mary Pearce, Jay Poole, Sarilee Tobiaz, Patty Wells and Karen Whitley, I believe -- well, Mary Pearce, Jay Poole, Sarile Tobiaz are in Richmond. I believe Patty Wells is also in Richmond. Karen Whitley might be in Louisville, but I'm not certain. And I believe Beth Morris is also in Richmond.

Q. So you think this includes North Carolina and Richmond, it may also include Louisville?

A. Yes, sir.

Q. What is the difference in the functions performed by the community relations offices and your communications office?

A. Are you asking about the communications functions specifically?

Q. Yes.

A. Okay. They handle local issues, from a media standpoint.

Q. Local press?

A. Local press, primarily. Also local

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Han

issues, having to do with the activities in the community, business issues specific to Richmond, things like that.

Q. So an inquiry from a national news program would always be kicked to New York?

A. An inquiry of any -- well, kicked, I'm not sure. An inquiry of any sort from the media, we would be carboned in, so we would be able to see it. Issues that were not specific to a facility community would be addressed generally by the New York office.

Q. I believe the next E-mail in chronological order is on page 4. Some of these appear several times, so it may be on page 4 and on other pages. But that's the one at the top. And it is the E-mail from you, Vic Han. And all the references in here are to you as Vic Han; that's how everybody knows you, I take it.

A. Yes, that's the case.

Q. And it is from you to Carraro, Daragan, Merlo, Parrish. Do you see that?

A. Yes.

Q. And that's about 15 minutes after the other one. The first one was 11:42. This one is

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Han

11:57.

A. Okay.

Q. Who is Barry Holt?

A. Barry Holt is the vice president corporate communications in Philip Morris Companies, Inc.

Q. Why was he cc'd?

A. So that he would know, should an inquiry come to him regarding this subject and this program, that he would know what it was about.

Q. The first sentence here reads, "Shirley Arnott in Richmond --" and that's a secretary in Richmond; right?

A. Yes, sir.

Q. "-- got the call from Day One just a few moments ago." Does that at all refresh your recollection that you had some other knowledge that the call was coming?

MS. ROBBINS: I object to the form.

A. No, sir, it does not.

Q. Then it reads, "Tara," and that's Tara Carraro, "will be calling the reporter back within the half hour to get more information.

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1 Han

2 Spoke with Maura Payne at RJR." And that is you
3 spoke with Maura Payne; is that right?

4 A. Yes, sir.

5 Q. Do you recall your conversation with
6 her?

7 A. Vaguely, sir.

8 Q. Do you recall anything beyond what's
9 in this note?

10 A. No, sir.

11 Q. It says you spoke with Maura Payne,
12 "who said the same reporter told her that while
13 Day One had been snooping around flavorings, the
14 story now is definitely about nicotine." Do you
15 know what flavorings are?

16 A. Flavorings would be some of the
17 ingredients that go into the manufacturing of
18 cigarettes.

19 Q. At the time that you talked to Maura
20 Payne, February 24, 1994, do you know if
21 flavorings contained nicotine?

22 A. No, sir.

23 Q. Do you know today?

24 A. I know that they don't.

25 Q. But then you didn't?

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Han

A. No, sir.

Q. Do you know if there is a difference between a flavoring, a tobacco flavoring, and tobacco extract?

A. A difference? Yes, I believe so.

Q. Did you know that then?

A. At that time I had never heard -- at this time I had never heard of tobacco extract.

Q. It then says, "Airing won't be for three weeks, just preceding Surgeon General's report." What was the Surgeon General's report that was expected?

A. 1994? I believe it was a Surgeon General's report, I don't know that I knew this at this time, I was aware that a Surgeon General's report was going to come out, and I believe the 1994 Surgeon General's report focused on youth and smoking.

Q. It goes on to say, "Day One is asking RJR specifically for two of their scientists who have published a great deal on the subject." I'm skipping a little bit, and it says, "Dave will be talking to reporter again to discuss conditions, guidelines." Do you know who Dave is?

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1 Han

2 A. I believe that refers to David
3 Fishel.

4 Q. Who is David Fishel?

5 A. Dave Fishel is at RJR, and I believe
6 that he is the boss of Maura Payne Ellis and
7 Peggy Carter.

8 Q. Is he your counterpart or is he Mary
9 Ellen Merlo's counterpart?

10 MS. ROBBINS: You are talking about
11 at the time?

12 MR. PAYTON: At the time.

13 A. I can't answer that question because
14 I really don't know how they are set up.

15 Q. And the next to last sentence, "Have
16 promised to stay in touch with RJR as we move
17 forward." Do you recall what you were going to
18 do? Were you going to call back to find out,
19 were they going to call you back?

20 A. I think it is, as the sentence reads,
21 that we would just stay in touch.

22 Q. Do you recall what you did next, what
23 did you do about the Day One inquiries?

24 A. No, sir, I do not.

25 Q. Is this the type of inquiry where you

1 Han

2 would want to assign someone to be responsible
3 for it?

4 A. Every media inquiry we get somebody
5 is responsible for.

6 Q. And did you assign Karen Daragan to
7 be responsible for this one?

8 A. I believe I did. By this point Karen
9 Daragan was pretty much responsible for the
10 management of most media calls that we received.

11 Q. So she was the logical person to
12 handle this, in any event?

13 A. Yes, sir.

14 Q. Do you recall talking to Ms. Daragan
15 about the inquiry right after --

16 A. I don't have a specific
17 recollection --

18 MS. ROBBINS: You have to let him
19 finish his sentence.

20 A. Excuse me.

21 Q. You can go ahead.

22 A. I don't have a specific recollection
23 of having a conversation with her immediately
24 following this E-mail, but we speak on these
25 subjects all the time.

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Han

Q. You want to go to page 3. I believe page 3, at the bottom, is an E-mail that describes a conversation that Tara Carraro had with the Day One person. Do you see that?

A. Yes.

Q. Do you recall receiving this E-mail?

A. No, I do not. Which again is not to say that I didn't.

Q. It reads, if I'm going to the body of it, "He says his piece is on nicotine." It says "alleged," but it is misspelled, alleged nicotine addiction.

MS. ROBBINS: Well, it's a typo.

MR. PAYTON: A typo, I'm sorry.

Q. "Alleged nicotine addiction, the debate over nicotine addiction." And then it goes on, I'm skipping something, "He's looking for corporate take on nicotine and alleged addiction. He's got the Washington Monthly piece (The Filtered Truth)." Were you familiar with the Washington Monthly piece then?

A. I believe I was.

Q. And this describes it, that it accused the tobacco companies of being out to

1 Han

2 create a nation of addicts and trick people into
3 smoking products with higher levels of tar and
4 nicotine?

5 A. I cannot say for sure, but certainly
6 that's what the article was about.

7 MS. ROBBINS: You're speaking as of
8 now?

9 THE WITNESS: As of now.

10 MS. ROBBINS: In that sentence.

11 Your question didn't really say what
12 you were asking in terms of time.

13 MR. PAYTON: I see. Well, if he
14 doesn't remember if the description is accurate
15 today, I guess you don't remember -- that's
16 fine.

17 Q. At the end of that paragraph, "he,"
18 the reporter, "would like Philip Morris to
19 respond to that claim and also speak to what our
20 motivation is for producing and selling tobacco
21 products."

22 Did Philip Morris have a response to
23 this claim that was apparently contained in the
24 Washington Monthly piece, that tobacco companies
25 are out to create a nation of addicts and trick

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1 Han

2 people into smoking products that have higher tar
3 and nicotine levels?

4 A. I'm sorry, could you ask me that
5 again? Did we have a response?

6 Q. Yes.

7 MS. ROBBINS: Did they make a
8 response --

9 Q. Yes, did you make a response to the
10 Washington Monthly piece.

11 A. You know, I don't recall if we did or
12 if we got any inquiries about it that would
13 require -- inquiries that would require a
14 response. And I'm not a hundred percent
15 certain -- well, I think we spoke to that
16 reporter, but I'm not a hundred percent certain.

17 Q. The reporter who did the Washington
18 Monthly piece?

19 A. Correct.

20 Q. At that time, this is February 4,
21 1994, was there a Philip Morris position, whether
22 you had made it known to the Washington Monthly
23 piece or not, about whether or not tobacco
24 companies are out to create a nation of addicts
25 and trick people into smoking products with

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1 Han

2 higher levels of tar and nicotine?

3 A. Those are both false claims.

4 Q. Mr. Han, I am going to mark as the
5 next exhibit a copy of what I think I mentioned
6 earlier, which is a set of materials that I
7 believe are your notes.

8 A. Okay.

9 MS. ROBBINS: Are you going to, John,
10 continue to use this exhibit as well?

11 MR. PAYTON: Yes, we are going to
12 come back to that.

13 MS. ROBBINS: Let me just say, John
14 has been reading only certain portions of these
15 E-mails to you and asking you questions about it,
16 that's fine, but you should read all the
17 sentences of the E-mails so you can give full
18 answers to his questions.

19 MR. PAYTON: That's exactly right.
20 And if at any time I ask you a question and you
21 give an answer, and then you look back and you
22 see something that you notice in there that would
23 have helped you explain the answer or would have
24 changed your answer, just let me know and we will
25 go back.

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1 Han

2 EXB (Han Exhibit 3 for
3 identification, pages from Mr. Han's notebook.)

4 Q. I have just marked as Han 3 a
5 multi-page document that begins with a number
6 that says PA 426619, and I believe it is pages
7 from a notebook that was yours, that you
8 maintained. Is that right?

9 A. Yes, sir.

10 Q. And you maintained it during what I'm
11 calling the relevant time period, January,
12 February, March 1994?

13 A. I believe so.

14 MS. ROBBINS: John, for your
15 convenience, if you use the other Bates numbers
16 on it, then the index that we have provided to
17 you will correlate with the longer Bates number,
18 not the PA number.

19 MR. PAYTON: Let me give the second
20 Bates number that's on here as well. It's
21 2023916591.

22 Q. There's a lot of blank pages in
23 there. We will go to the pages, not all of them,
24 but just some of the pages that I think will help
25 us understand these inquiries. You can look

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Han

through it if you want. The first page I want to go to is the very first page that has notes on it. And it is, I believe, the third page in. And I believe that's where you are.

It has at the top right-hand corner "Day One," and in the top left-hand corner it says "Staff meeting," I believe.

A. One of my rare staff meetings.

Q. And under "Staff meeting," it says "2/7," which I take to be February 7, Monday, the Monday after the Friday, February 4, telephone call about the Day One story.

A. Oh. Okay.

Q. Do you recall this staff meeting?

A. The actual meeting?

Q. That you had one.

A. No, sir, I don't recall the meeting.

No, sir, I don't.

Q. Let me just ask you a few questions about your notes then. In the upper right-hand corner it says "Day One." Do you see that?

A. Yes, sir.

Q. And under that it says, as I read it,
"Vic Denoble."

1 Han

2 A. Yes, sir.

3 Q. Who is Vic Denoble?

4 A. A scientist who once worked for
5 Philip Morris.

6 Q. Do you know if he worked for Philip
7 Morris then, that is, in 1994?

8 A. He did not.

9 Q. Do you know when he stopped working
10 for Philip Morris?

11 A. I do not know the exact year.

12 Q. Can you read -- I can't read the rest
13 of it. Can you read it? It says "Former Philip
14 Morris --"

15 A. It says "Former PM now with," and I
16 can't read the last word.

17 Q. And the box underneath that, can you
18 read that?

19 A. Yes, sir.

20 Q. What does that say?

21 A. "Carchman".

22 Q. Who is Carchman?

23 A. Carchman is a scientist at Philip
24 Morris.

25 Q. C-a-r-c-h-m-a-n?

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A. Yes, sir.

Q. And he is a scientist whose field is what?

A. I don't know.

Q. Do you remember why his name is in your notes?

A. No, sir, I do not.

Q. Is there a relationship between him and Denoble?

A. Only that they are both scientists.

Q. Under "Staff meeting" and then "2/7," there are four numbers. The first one says "Greg Cummings"; is that correct?

A. Yes, sir.

Q. Who is that?

A. Greg Cummings is a gentleman who works in Richmond. I do not recall what his position is or what his activities are. But he had requested to visit other departments that he was unfamiliar with.

Q. He was a Philip Morris employee?

A. Yes, in Richmond. And the human resources department contacted me at one point and said that this was his interest, and would I

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1 Han

2 mind having him come up for a day to observe my
3 department and other departments in the corporate
4 affairs department.

5 Q. And under that there is a number that
6 says 2, it says, "Day One - KD coordinate." Do I
7 understand that to mean Karen Daragan to
8 coordinate the Day One?

9 A. Yes, sir.

10 Q. Do you recall what you said to her at
11 this staff meeting about that?

12 A. No, sir.

13 Q. What would coordinate mean, just in
14 general?

15 A. Generally, to be the point person,
16 the person who will be -- maintain contact with
17 the reporter.

18 Q. And under that it says 3, "Q and A
19 Miller."

20 A. No.

21 Q. Miles?

22 A. That's Miles.

23 Q. Miles is the CEO?

24 A. Yes, sir. Was. Was.

25 MS. ROBBINS: At that time.

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MR. PAYTON: Was at that time.

Q. Do you recall what this Q & A was about?

A. Yes, sir.

Q. What was it about?

A. It was for the annual meeting.

Q. And, again, this is something that your office, I take it the other side, would prepare? You said they did writing?

A. That's right.

Q. The editorial side?

A. The editorial side would be the ones who primarily would be responsible for preparing certain Q and A for Mr. Miles, in preparation for the annual meeting.

Q. When you have a staff meeting, and I understand you don't have a specific recollection of this one, but are staff meetings everybody that is in the corrected flow chart, that is, the editorial side and the communications side and the media program side?

MS. ROBBINS: I don't know what you mean by the corrected flow chart.

Q. The flow chart as I --

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MR. PAYTON: Withdraw that.

Q. Is it everybody that you described in your testimony earlier that was reporting to you when you were the director of communications in January-February 1994, that is, the editorial persons and the media programs persons?

A. Yes, sir.

Q. Do you remember how you came to keep the notes like this? Are the 1, 2, 3, 4, things you wanted to go over at the meeting?

A. Yes, sir.

Q. So this is sort of your agenda?

A. Such as it is.

Q. And the comments or the notations on the right side are in response to what happened at the meeting?

A. I do not know.

Q. Do you know why you wrote "Vic Denoble" there?

A. No, sir, I do not.

Q. I want to go back to the E-mails. You can keep both things out there in front of you. The E-mail I would like you to go to now is on page 4, at the bottom. And I believe it is

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Han

the next in chronological order. It's the E-mail from you, Vic Han, on Monday, February 7, 1994, 11:26 a.m., Subject: Day One, to Ellen Merlo, Steve Parrish. Do you see that?

A. Yes, sir.

Q. Do you know from the 11:26 time whether this would have been after your staff meeting? I mean, would you have staff meetings first thing? If you don't remember, just say you don't remember.

A. I don't remember, I'm sorry.

Q. To Ellen Merlo. And Ellen Merlo you said was your boss?

A. Yes, sir.

Q. Who was Steve Parrish?

A. Steve Parrish is general counsel,
Philip Morris U.S.A.

Q. Why was he being sent these E-mails? He's on all the other E-mails, and you can check and see, I believe he is a recipient on the "To" line of all the other E-mails that we have gone over.

A. Well, as I said earlier --

MS. ROBBINS: Is your question as to

1 Han

2 Q. It reads, "At this point, we are of a
3 mind to provide comment over the phone and not
4 put anyone on the show."

5 A. "We are of the mind," yes, sir.

6 Q. "We are of the mind," yes.

7 Does that refresh your recollection
8 at all about what was discussed at the staff
9 meeting about the Day One inquiry?

10 A. No, sir. I don't know that we
11 discussed Day One extensively at that staff
12 meeting. I don't know.

13 Q. Do you remember if there was not a
14 staff meeting but just a meeting to discuss Day
15 One?

16 A. I don't have any specific memory of
17 one. But, as I said before, my team and I, the
18 communications side of it, spoke on media issues
19 on an ongoing basis.

20 Q. How close are your offices,
21 physically, Karen Daragan, Tara Carraro?

22 MS. ROBBINS: At the time.

23 A. At the time, in February?

24 Q. Yes.

25 A. Karen Daragan -- if we wanted to, we

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Han

could talk to each other without leaving our offices. Karen Daragan was immediately to my right. Tara was immediately in front of her, I believe. Brendan was on the other side of Tara. And Jack Lenzi was across from me. I could look into his office.

Q. People spent a lot of time in other people's offices?

A. Yes, sir.

Q. In the next sentence, I'm just going to read it, "Understand, Day One is asking for someone from Philip Morris to appear to discuss why we sell cigarettes from a corporate/business perspective although we would have to respond to claims made in the Washington Monthly piece, perhaps including charge industry 'baits and switches' soft pack for hard pack because product in hard packs have more nicotine."

Does that refresh your recollection about any of the discussion that went on?

MS. ROBBINS: You can answer, but I would ask you first to read the entire note.

MR. PAYTON: Read the whole note.

MS. ROBBINS: See what the whole

1 Han

2 thing says.

3 MR. PAYTON: Just five more
4 sentences. Read the whole note.

5 A. No, sir, it does not.

6 Q. The sentence I read, which is "baits
7 and switches soft pack for hard pack because
8 product in hard packs have more nicotine," at
9 that time did you know if the product in hard
10 packs had more nicotine than the product in soft
11 packs?

12 A. I do not know.

13 Q. You didn't then and you don't now?

14 A. No, sir.

15 Q. The last sentence says, "We will stay
16 in communication with Maura," and again that's
17 Maura Payne, Maura Payne Ellis?

18 A. Yes, sir.

19 Q. Did you expect to be the person who
20 stayed in touch with Maura Payne Ellis or was
21 that going to also be delegated?

22 A. I don't know whether "delegate" would
23 be the right word. There were no constraints on
24 any of my people to call her up.

25 MR. PAYTON: I want to take a short

1 Han

2 break.

3 THE VIDEO OPERATOR: It is 11:12, and
4 we are off the record.

5 (A recess was taken.)

6 THE VIDEO OPERATOR: It is 11:23, and
7 we are back on the record.

8 BY MR. PAYTON:

9 Q. Mr. Han, I was asking you some
10 questions about the staff meeting that took
11 place, or any other meetings that took place on
12 February 7, 1994. Let me ask you to turn to the
13 fourth page of your notes. Just turn -- yes,
14 exactly. This is a page that has no date on it.
15 The upper right-hand corner has a word that I
16 read as Temko. Do you see that?

17 A. Yes, sir.

18 Q. Have I read that properly?

19 A. Yes, sir.

20 Q. And on the left it says "Day One,"
21 and under that it says "Vic Denoble" again
22 "/addiction." Do you see that?

23 A. Yes, sir.

24 Q. I have assumed, tell me if this is
25 wrong, that this is a continuation of notes or

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maybe the actual notes from the staff meeting.

A. No, sir, I don't believe that it is.

Q. I will tell you why I said that. You can just tell me, I just want to know the answer. It seems to have notes that relate to what was in the E-mail, which should be right in front of you, the February 7 E-mail, "Maura" is down here, "Day One," "nicotine experience." The name of the scientist that you had on the prior sheet, Carchman, is also there. Do you see that?

A. Yes.

Q. Does that help you remember what this page is referring to or relating to?

A. No, I'm afraid not, it does not. And I don't believe it's part of the staff meeting. One reason is there's plenty of room on the page if this was my staff meeting. And I unfortunately from time to time open up the notebook and just write things and not necessarily be in chronological order.

Q. So this just may be notes you made in the notebook?

A. This could be before or after the staff meeting.

1 Han

2 Q. Do you go through the pages -- this
3 notebook is just a notebook with lined paper in
4 order? Is it spiral bound?

5 A. It is a spiral bound notebook, yes.

6 Q. Do you make entries in the order of
7 the pages?

8 A. I try to.

9 Q. So it would be more likely than not
10 that these notes would have been made after the
11 prior page's notes?

12 A. More likely than not.

13 Q. Let me -- let's just go down this
14 page and see what you do remember about this.
15 Vic Denoble now has after him the word
16 "addiction." Was that Vic Denoble's area? He's
17 a scientist; right?

18 A. Yes. I don't think that addiction
19 would be an area, per se. He was a research
20 scientist. He was looking into analogs.

21 Q. If it's not an area, was it something
22 he was knowledgeable about?

23 A. I believe so. I mean, I certainly
24 know more about him now than I did when this
25 notebook was written.

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1 Han

2 Q. And addiction is nicotine addiction?

3 A. Yes, sir.

4 Q. Under Vic Denoble, it says, I think
5 it says, "SHB," or --

6 A. It is "SHB," and it stands for
7 Schick, Hardy carried & Bacon.

8 Q. They are a law firm?

9 A. Yes, sir.

10 Q. Do you recall why they are noted
11 here?

12 A. It appears that they are getting
13 information from some documents, but I do not
14 know what the circumstance is for my having noted
15 this.

16 Q. You don't remember if there is a
17 relationship between what they're doing and Vic
18 Denoble?

19 A. I cannot say with certainty that I do
20 know, but it looks like those are together.

21 Q. And Carchman, it looks like he's
22 together with all this, too?

23 A. Yes.

24 Q. Carchman has a, it looks like an
25 arrow or a mark to the right, and then it has

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1 Han

2 "before his arrival." Did I read that properly?

3 A. Yes.

4 Q. Do you know what that's referring to?

5 A. I believe it refers to the fact that
6 Vic Denoble left Philip Morris prior to Dr.
7 Carchman joining the company.

8 Q. Was Dr. Carchman also knowledgeable
9 about nicotine addiction? Is Dr. Carchman also
10 knowledgeable about nicotine addiction?

11 A. I think so, yes, sir.

12 Q. Do you now know why he is listed
13 here?

14 A. No, sir, I do not.

15 Q. Under that we have "Jim Charles." Do
16 you see that?

17 A. Yes, sir.

18 Q. Who is that?

19 A. Jim Charles is a retired scientist
20 for Philip Morris.

21 Q. And was his area also nicotine
22 addiction?

23 A. I believe it was R&D, research and
24 development.

25 Q. And in R&D, did he also work on

1 Han
2 issues like nicotine addiction?

3 A. I do not know.

4 Q. Do you know why his name is on here?

5 A. He was with the company for the
6 longest period of time of all of these, and
7 probably had more institutional information and
8 institutional knowledge about the company.

9 MS. ROBBINS: Just before you ask
10 your next question, I'm going to object to your
11 use of the term "nicotine addiction." It does
12 not say nicotine addiction on this page.

13 MR. PAYTON: I asked him if the
14 reference was to nicotine addiction.

15 MS. ROBBINS: I'm objecting.

16 Q. That was your understanding, wasn't
17 it, that it was to nicotine addiction?

18 A. Yes, sir.

19 Q. Were you familiar with Vic Denoble
20 from working at Burson Marsteller?

21 A. No, sir.

22 Q. The name underneath Jim Charles,
23 Frank, I can't read the last name?

24 A. Frank DiLoda.

25 Q. D-i-L-o-d-a?

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A. That's what I have here, yes.

Q. Do you know who that is?

A. No, sir, I haven't the faintest idea who that is.

Q. Just a complete blank on that?

A. Complete blank.

Q. And underneath that, can you read what that is?

A. The name "Maura."

Q. Maura, I see. That's Maura. And that's Maura Payne Ellis again?

A. Yes, sir.

Q. Do you know why her name is down here?

A. I can only guess. I don't know for certain. But it seemed to me that that whole section here with "David," "considering going ahead," "just yesterday," et cetera, et cetera, is all part of the same.

Q. And the David is the David Fishel?

A. That's an assumption on my part.

Q. And "just yesterday" --

A. I don't know what that means.

Q. Do you recall in the February 4

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1 Han

2 E-mail, which is -- I can't remember what page we
3 looked at it.

4 A. There's one on page 5. That's not
5 the one, I guess. There's another one on page 4.

6 Q. In the February 4 E-mail from you to
7 Tara Carraro, Karen Daragan, and others, there is
8 a reference in there to "Dave will be talking to
9 reporter again to discuss conditions/guidelines."
10 Do you see that?

11 A. Yes, sir.

12 Q. Do you know if you heard back about
13 whether or not Dave Fishel, you said that was,
14 did that, talked to the reporter again?

15 A. No, I do not know.

16 Q. And under "David" on your notes, I'm
17 back to your notes, it says, "David just
18 yesterday," and then underneath it it says,
19 "considering going ahead." Is that what that
20 says?

21 A. That's what I read, yes.

22 Q. And then "middle of next week" is all
23 the way to the right on this little bunch of --

24 A. Right.

25 Q. And then under that, "Purely nicotine

1 Han

2 story"?

3 A. Yes.

4 MS. ROBBINS: I'm not sure I agree
5 with all your spatial characterizations, but go
6 ahead.

7 Q. And to the right of that it says "Day
8 One nicotine experience"; is that right?

9 A. It looks like "exposure," but --

10 Q. Okay.

11 And underneath that -- what do you
12 think it says?

13 A. I don't know. I mean, it looks like
14 "exposure." It could be "experience." When you
15 said that, I didn't think of that.

16 Q. Under that in a box and to the left
17 is "someone" -- can you read that?

18 A. It looks like it says "someone who
19 was deposed."

20 Q. Does any of that ring any bells about
21 what you were taking these notes from?

22 A. Not with great certainty, with any
23 certainty, sir. They could be notes that I took
24 when I spoke with Maura Ellis.

25 Q. And do you remember when you spoke

1 Han

2 with Maura Ellis?

3 A. I don't recall, but based on these
4 E-mails it was on February 4, I presume.

5 Q. I see. The February 4 time you spoke
6 to Maura Ellis. Do you know if you had more than
7 one conversation with Maura? My understanding is
8 you talked to her on more than one occasion.

9 A. I spoke with RJR on more than one
10 occasion. I'm not necessarily certain if I spoke
11 with Maura herself on more than one occasion.
12 That's the reason -- well, I know we said that
13 this page probably occurred after the 7th, but,
14 again, I can't guarantee you about that.

15 Q. On the right side of this same page
16 of your notes, where it says "Temko," do you know
17 who Temko is?

18 A. Yes, sir, he's an attorney.

19 Q. This is a lawyer at Covington &
20 Burling?

21 A. Covington & Burling, yes.

22 Q. Do you know what Mr. Temko's
23 relationship is to any of these other notes?

24 A. I'm afraid not, sir.

25 Q. And way below that -- not way below

1 Han

2 that, but below that there is a notation that
3 says "RJR," and then underneath that, "provide
4 schedule."

5 A. "Scientist."

6 Q. "Scientist." Thank you. And under
7 that it says, "Fred Newman"?

8 A. Yes.

9 Q. Who is Fred Newman?

10 A. Fred Newman is an attorney at Philip
11 Morris. I believe he was general counsel of
12 Philip Morris U.S.A.

13 Q. The "RJR provide scientist," that is
14 something that I believe --

15 A. There is a reference to that in one
16 of these E-mails.

17 Q. Yes, there is.

18 In your E-mail on February 4 -- do
19 you have that in front of you?

20 A. February 4? Yes, sir.

21 Q. Right in the center of the E-mail it
22 says "Day One is asking RJR specifically for two
23 of their scientists." Do you see that?

24 A. Yes, sir.

25 Q. "Who have published a great deal on

1 Han

2 the subject. RJR is taking the request on
3 advisement and will not provide definitive
4 response until next week." Do you see that?

5 A. Yes, sir.

6 Q. Looking back at your notes, do you
7 think this note refers to that or to RJR having
8 decided to provide the scientists, or does it
9 refresh your recollection at all?

10 A. You mean refresh my recollection as
11 to the relationship between this E-mail and this
12 page?

13 Q. Yes.

14 MS. ROBBINS: In terms of time?

15 MR. PAYTON: Yes.

16 Q. My question is whether or not you
17 think these notes are notes from your
18 conversation that's reflected in this E-mail, or
19 notes from a followup conversation, because it
20 could be that this is RJR telling you they are
21 going to provide the scientists. But you have to
22 tell me.

23 A. I do not believe that these -- I
24 believe these notes have to do with the same
25 subject matter that is in this E-mail.

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1 Han

2 Q. And would have been notes of the same
3 conversation?

4 A. Yes, sir.

5 Q. Do you know why Fred Newman is listed
6 there?

7 A. No, sir.

8 Q. The note to the right of Fred Newman,
9 can you read that?

10 A. I can't read the first word, but the
11 last other two would be "under advisement."

12 MS. ROBBINS: "Took"? Is that
13 "took"?

14 THE WITNESS: Could be "took,"
15 "take." I don't know.

16 Q. Could be "took under advisement"?
17 It's hard to figure out the first word?

18 A. Yes, I can't read the first word.

19 Q. And underneath that is "Maura" again?

20 A. Yes, sir.

21 Q. And that's, again, Maura Payne Ellis?

22 A. Yes, sir.

23 Q. Had you been involved in other issues
24 that related to nicotine or nicotine addiction
25 prior to this Day One story?

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1 Han

2 MS. ROBBINS: Notwithstanding -- I'm
3 going to object to your using the phrase
4 "nicotine addiction."

5 A. I was familiar with the issue.
6 Certainly we had received media calls about
7 nicotine and addiction as part of questions we
8 received. If that's how you define involvement,
9 then the answer would be yes.

10 Q. There was some correspondence which
11 was between the Centers for Disease Control and
12 Philip Morris and other tobacco companies, in the
13 fall and winter of 1993, about nicotine as an
14 additive and whether or not that would have to be
15 disclosed. Do you recall any of that?

16 A. No, I do not recall that. I saw some
17 documents during my preparation, I believe, that
18 related to that. But that was the first time I
19 had seen it.

20 MS. ROBBINS: Fall of '93, winter of
21 '94.

22 Q. Let me show you four documents that I
23 believe relate to this exchange.

24 EXB (Han Exhibit 4 for
25 identification, letter to Michael P. Eriksen,

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1 Han
2 from Stanley L. Temko, dated January 19, 1994.)
3 EXB (Han Exhibit 5 for
4 identification, letter to Stanley L. Temko, from
5 Michael P. Eriksen, dated December 10, 1993.)

6 EXB (Han Exhibit 6 for
7 identification, letter to Michael P. Eriksen,
8 from Stanley L. Temko, dated February 25, 1993.)

9 EXB (Han Exhibit 7 for
10 identification, letter to Michael A. Miles, from
11 Michael P. Eriksen, dated September 27, 1993.)

12 MS. ROBBINS: Are you marking them in
13 chronological order?

14 MR. PAYTON: I don't know how he
15 marked them. I handed them to him most recent
16 and went backwards, so the one I believe was
17 marked first is a January 19, 1994 letter from
18 Mr. Temko to Michael Eriksen at the Centers for
19 Disease Control.

20 The next document, I don't know the
21 number, is a letter dated December 10, and it is
22 from Michael Eriksen to Stanley Temko at
23 Covington & Burling.

24 The next letter is an October 25
25 letter from Stanley Temko to Michael Eriksen at

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1 Han

2 the Centers for Disease Control.

3 And the final document is the first
4 document, September 27, 1993, a letter from
5 Michael Eriksen to Michael Miles, the CEO of
6 Philip Morris Companies.

7 Q. Do you see these documents, Mr. Han?

8 A. Yes, sir.

9 Q. Are these the documents that you were
10 just remembering reviewing?

11 A. I believe so.

12 Q. You don't believe that you saw any of
13 these documents at or about the time they were
14 sent or received?

15 A. No, sir.

16 Q. Only -- well, let me ask this: Did
17 you see any of these documents in February of
18 1994? And let me direct your attention to the
19 top line of the first three documents, where,
20 even though they are dated the dates I gave,
21 there is a fax line at the top, February 24. Do
22 you see that?

23 A. Yes, sir.

24 Q. And three of these have the same fax
25 line, appear to have been faxed at the same time,

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1 Han

2 on the same day.

3 A. I see that.

4 Q. Do you recall seeing any of those
5 three documents in February of 1994?

6 A. No, sir, I do not.

7 Q. Did you note something there?

8 A. No. I'm just reading these. I
9 haven't read them before. I didn't know this
10 stuff was going on.

11 Q. I was asking you those questions only
12 to find out if you were aware this was going on.

13 A. I was not.

14 Q. Is --

15 A. Are you finished with these?

16 Q. Yes.

17 If there had been a press angle to
18 that correspondence, then maybe you would have
19 been involved?

20 MS. ROBBINS: I object to the form of
21 the question.

22 Q. Do you know what I mean?

23 A. I don't know what you mean by a press
24 angle.

25 Q. If these had been released to the

Han

press, or -- I mean, the letters from Covington & Burling to the CDC are actually marked confidential.

A. Right.

Q. Do you see that?

A. Yes.

Q. So this was not public correspondence in any way.

A. I don't know.

Q. Was your office involved in FDA issues that related to nicotine at this time, January-February 1994?

A. No, sir.

Q. At that time, January, early February, I think we are up to February 7, 1994, were you aware of any FDA interest in cigarettes, tobacco, nicotine?

A. No, sir, I was not.

Q. Do you have any independent recollection of what happened once we go past Monday, February 7, in trying to remember what happened in connection with this story?

MS. ROBBINS: You are talking about any time after February 7?

1 Han

2 MR. PAYTON: The next event.

3 MS. ROBBINS: You are asking whether
4 he knows what the next event is, independent of
5 the E-mails?

6 MR. PAYTON: Yes.

7 A. I'm afraid not, sir.

8 Q. Do you want to look at page 1.

9 MS. ROBBINS: Of the E-mail.

10 Q. I don't remember the exhibit number,
11 but of the E-mails.

12 MS. ROBBINS: Han 2.

13 Q. And I believe the E-mail on that
14 first page relates to a February 14 telephone
15 conversation between Karen Daragan and Walt
16 Bogdanich. Do you see that?

17 A. Yes, sir.

18 Q. Do you remember having any
19 conversation with Ms. Daragan about her telephone
20 call with Mr. Bogdanich? I'm not asking if you
21 remember what happened in the conversation, but
22 do you remember having a conversation with her?

23 A. I'm sorry. Could you ask me that
24 question again?

25 Q. The question is whether or not you

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1 Han

2 recall having a conversation with Ms. Daragan
3 about her talk with Mr. Bogdanich.

4 A. I don't have a specific recollection
5 of that.

6 Q. I'm going to the second paragraph, I
7 think the fourth sentence. It reads, "He," he,
8 the reporter, "said that he does have some Philip
9 Morris-specific questions and Philip
10 Morris-specific allegations." Do you see that?

11 A. Yes, sir.

12 Q. "But, he is not prepared to share
13 them with us over the phone at this time. I
14 asked him when he would be prepared. He said he
15 didn't know. He would get back to me." Okay?

16 A. Yes, sir.

17 Q. Do you remember having any meetings,
18 discussions, conversations with anybody about how
19 Philip Morris should approach these issues?

20 A. What issues?

21 MS. ROBBINS: I object to the form of
22 the question. What issues?

23 Q. The story.

24 A. I can't -- I'd almost go so far as to
25 say what story. I mean, I can't tell from that

Han

E-mail what this program is going to be about.

Q. I'm asking this. I think you have misunderstood what I'm trying to get. I'm trying to figure out if, understanding this, you said, "I need to know more, let's call Maura and see what RJR knows, let's call the reporter back." I mean, did you have any approach?

A. You mean did I take any action based on this?

Q. Yes.

A. Not that I can recall. I don't recall having meetings about this. But as I've said a couple of times, my staff and I talk about these things all the time.

Q. Did there come a time when you learned that RJR had decided to make two scientists available to be interviewed by Mr. Bogdanich or someone at Day One?

A. I know that it occurred. I don't know that RJR said we've decided to do it or not. That part I don't recall. But I do know that it occurred.

Q. And do you remember talking to someone at RJR after those interviews had

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Han

occurred about what had happened during those interviews?

A. Yes, sir.

Q. Who did you speak with?

A. I believe I spoke with Peggy Carter, but I'm not a hundred percent certain.

Q. And what did she tell you?

A. She told me that she felt that she had been misled, that in conversations with Day One, and trying to determine who the right person would be to have the interview, she concluded, and I -- she concluded that, based on those conversations, this was going to be about nicotine, and that a scientist would be the appropriate person.

However, when the interview took place, the questions had to do with manufacturing, and these two people were not that knowledgeable about that area. And so she felt that she had been misled.

Q. Did she tell you that the scientists had been asked about reconstituted tobacco sheet?

A. I'm sorry, sir, I don't recall.

Q. At that time, February 1994, did you

1 Han

2 know what reconstituted tobacco sheet was?

3 A. Yes, sir.

4 Q. What did you understand it to be?

5 MS. ROBBINS: Just for the sake of
6 clarity, are you including all of February 1994,
7 or are you talking about time of his conversation
8 with Ms. Carter?

9 MR. PAYTON: That's very good.

10 Q. At the time of the conversation with
11 Ms. Carter -- and let me pin that down a little
12 bit. I believe the interviews take place on the
13 21st of February, so I believe your conversation
14 would have been that day or thereafter. Were you
15 familiar with reconstituted tobacco sheet?

16 A. I knew of -- I knew about
17 reconstituted tobacco sheet, and -- I mean, not
18 how it was made, but I knew of its existence and
19 generally what it was, but I knew that before I
20 became involved with Philip Morris. I knew that
21 probably starting around the late seventies.

22 Q. How did you know what you knew about
23 reconstituted tobacco sheet?

24 A. It was in the mid-seventies -- no,
25 actually I started smoking cigars before that.

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1 Han

2 But that's when I started buying books about
3 cigars. And it was not called reconstituted
4 tobacco in those books. It was called
5 homogenized tobacco leaf, or something like that,
6 HDL. And so I was aware of reconstituted tobacco
7 back then. And if you go find a cheap cigar
8 someplace, you will find it's the wrapper.

9 Q. You said you read books on cigars?

10 A. There weren't many of them, but I
11 read them. I've got them all, if you would like
12 to borrow some some day.

13 Q. Did the knowledge that you had from
14 the seventies, or sixties, when you started
15 smoking --

16 A. Seventies.

17 Q. Seventies, smoking cigars. Did that
18 also include knowledge about the use of
19 reconstituted tobacco in cigarettes?

20 A. No, sir.

21 MR. PAYTON: We are going to take a
22 break because we are running out of tape.

23 THE VIDEO OPERATOR: It is 11:57.
24 This is the end of Tape No. 1 of the deposition
25 of Victor Han. 11:57. We are off the record.

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1 Han

2 (A recess was taken.)

3 THE VIDEO OPERATOR: Today is March
4 16, 1995. This is the beginning of Tape No. 2 of
5 the deposition of Victor Han. It is 12:05, and
6 we are back on the record.

7 BY MR. PAYTON:

8 Q. The knowledge that you had about
9 reconstituted tobacco sheet, that you acquired in
10 the seventies, was about cigars and not
11 cigarettes?

12 A. Correct.

13 Q. Did you thereafter acquire any
14 knowledge about reconstituted tobacco sheet as it
15 was used in cigarettes?

16 A. Subsequent to --

17 Q. Up to February 21, or thereabouts,
18 1994.

19 A. I would say not really.

20 Q. And the reconstituted tobacco sheet
21 that you knew something about that related to
22 cigars was the reconstituted tobacco sheet that
23 was used as the wrapper for cigars?

24 A. Among other things, I believe.

25 Q. What were the other things?

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1 Han

2 A. Oh, filler.

3 Q. Did Peggy Carter, with whom you had
4 this telephone conversation February 21-22 --

5 A. Who I think I had.

6 Q. Who you think you had a telephone
7 conversation with. You had a telephone
8 conversation; you think it was with Peggy Carter;
9 is that fair?

10 A. Yes, sir.

11 Q. Did she tell you that the RJR
12 scientists were asked about adding nicotine to
13 cigarettes?

14 A. I do not recall that.

15 Q. Do you recall anything else about
16 your telephone conversation?

17 A. No, sir, I don't.

18 Q. Do you know if you turned your
19 telephone conversation into an E-mail?

20 A. I do not recall whether I did or did
21 not.

22 Q. Do you know if you turned it into a
23 memo?

24 A. I do not recall whether I did or did
25 not.

1 Han

2 Q. Aside from the E-mails that are in
3 Han Exhibit 2, did you review any other E-mails
4 in preparation for your testimony today?

5 MS. ROBBINS: Take a minute to --

6 MR. PAYTON: Yes, go ahead, take a
7 look.

8 A. Others besides this, you mean?

9 Q. That's correct.

10 A. I don't think so. I think this is
11 it.

12 Actually, there might have been one
13 other. I couldn't tell you what it is.

14 MS. ROBBINS: You are asking whether
15 he reviewed any other E-mails?

16 MR. PAYTON: Yes.

17 MS. ROBBINS: Other than these?

18 MR. PAYTON: Yes.

19 MS. ROBBINS: If you don't recall
20 whether you did --

21 A. I don't recall. I know I reviewed
22 these. I don't know if I reviewed others.

23 Q. Let me ask you to go back to your
24 notes on Exhibit 3, and turn to the next place
25 where there is writing. There are a number of

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1 Han

2 pages that are redacted. That page in mine is PA
3 426633. Do you see that?

4 MS. ROBBINS: Or --

5 MR. PAYTON: Or 2023916636.

6 Q. And that has at the top "Would be
7 willing to fly wherever for interview or on
8 background." Did I read that correctly?

9 A. Yes, sir, that's what I read.

10 Q. Do you know what these notes are
11 referring to?

12 A. I'm afraid not. I do not.

13 Q. The next note says, "Monday," and
14 then it has a dash, and it says, "John." Can you
15 read the last name?

16 A. John Rupp.

17 Q. Do you know who John Rupp is?

18 A. John Rupp is an attorney at Covington
19 & Burling.

20 Q. Does that refresh your recollection
21 about --

22 A. I'm afraid not.

23 Q. Does "Monday"?

24 A. No, sir.

25 Q. The staff meeting was Monday, the

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Han

7th. The telephone conversation between Ms. Daragan and Mr. Bogdanich was Monday, the 14th. The interview with RJR was Monday, the 21st. I'm just trying to see if those sort of little dates and relationships help you place "Monday - John Rupp," or anything else on this page.

A. I'm afraid not, sir.

Q. The next writing says, "According to," and I can't read the next word.

A. Most.

Q. "According to most recent conversation with Day One, their subject is nicotine."

A. That's what I read.

Q. It doesn't --

A. I'm afraid not.

Q. Can you turn to the next page. I have a box that has inside it, although it has crosses through it, I believe the word "Background." Is that correct?

A. Yes, sir.

Q. And then I have a date, and the date is either 2/14/93 or 2/24/93.

A. That's what it says.

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Han

Q. What do you think that date is?

A. It's probably 2/14/94.

Q. It's the same question. Is it then more likely that the notes from the prior page happened on 2/14/94 or before?

A. It would be more likely, but, again, I did things out of order.

Q. Mr. Han, I think I asked you earlier if you had been asked to help provide some responses by Philip Morris to various questions, interrogatories, that ABC had put to Philip Morris, and you said you had. Do you recall that?

A. Yes, sir.

Q. There was a particular question that I want to ask you about, which is a question that related to contacts with other tobacco companies. Do you recall that question?

A. No, sir, I do not.

Q. I'm going to read you the question, but I'm going to tell you where I'm going, because I simply want to know what your involvement was in something. There is an answer that is provided, that goes through what

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1 Han

2 conversations --

3 MS. ROBBINS: For my sake, what
4 interrogatory are you talking about, so I can
5 follow along?

6 MR. PAYTON: I'm coming to it.

7 MS. ROBBINS: I'm sorry.

8 Q. That is inquiring about contacts
9 between Philip Morris and other tobacco
10 companies, and the answer deals with your
11 contacts with RJR. And that is interrogatory 12,
12 and Philip Morris' incorporated answers to John
13 Martin's first set of interrogatories.

14 MR. PAYTON: I have one extra set
15 which I can let you look at.

16 MS. ROBBINS: I have mine.

17 Q. Let me just hand you this. I'm not
18 going to mark it at this time. I just want you
19 to look at it. This is Philip Morris,
20 Incorporated's answers to John Martin's first set
21 of interrogatories. Do you know if you have seen
22 this document before?

23 A. I have not.

24 Q. Let me ask you to open it to page 63,
25 which I have flagged with a blue flag for you

there. Do you have it? And it is interrogatory
12. And I would like you to read that, and I'm
going to ask you if you have seen that
interrogatory before.

And then I have flagged the substance of the answer that relates to you, which is on page 64, and you may want to read both the interrogatory and the substance of the answer that relates to you. The intervening stuff I don't think actually is of significance to you, but go ahead and take a look.

MR. PAYTON: Barbara, I'm going to be willing to read his, the response that I say relates to him. I just wanted him to be able to read the question and to have looked at this.

MS. ROBBINS: Let me just see the document for a second.

Just so you are aware, these interrogatory answers were done on or about August 18, they were served on ABC, August 18, 1994.

Q. Mr. Han, do you recall having seen
interrogatory 12?

A. Yes, sir.

Han

Q. And did you provide the information that is in the response, the substantive response that is on page 64, that has a number 1 in front of the relevant paragraph?

A. Yes, sir.

Q. Did you draft this?

A. No, sir.

Q. You gave this information to the attorneys and they drafted it?

A. I believe so. I gave the information to the attorneys.

Q. Did you review this before they provided this answer, or do you know? Did you review the language that you read here?

A. Yes, sir, I did.

Q. And did you provide the information orally or did you provide E-mails or other documentation in response to interrogatory 12?

A. This was oral.

Q. You were interviewed?

A. So to speak.

Q. Fair enough.

The first sentence is about your conversation with Maura Payne, which is in the

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Han

E-mail, in an E-mail, and the second sentence references the E-mail. The third sentence reads, "Further, Mr. Han had a subsequent conversation with Ms. Payne about the RJR interview by Day One sometime after the interview took place. He, Mr. Han, also believes that he most probably would have spoken to Ms. Payne on other occasions up until the time of the February 28 broadcast, but he has no specific recollection of a particular conversation. "

Does the sentence that begins

"Further, Mr. Han had a subsequent conversation with Ms. Payne about the RJR interview by Day One sometime after the interview took place," does that refresh your recollection about who you had the telephone conversation with?

A. I'm afraid it does not.

Q. Well, is it more likely that this is the more accurate version, because you gave it back last summer?

A. A little closer. I can't say that it is.

Q. Have you talked to Ms. Payne about any of these events since last summer?

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Han

MS. ROBBINS: These events being the
Day One broadcast, interview --

Q. The conversations that you had with
her in February about the Day One upcoming
story.

A. No, sir.

Q. The last sentence indicates that you
think you may have had additional conversations
with her, but you are not sure. I take it that
is still what you think, you may have but you're
not sure?

A. That's correct, sir.

Q. May you also have had additional
conversations with Ms. Carter but you're not
sure?

A. On this subject matter?

Q. On this subject matter, yes, in this
time frame.

A. It's possible.

Q. It's my understanding that one of
these telephone conversations that occurred with
Ms. Payne, Ms. Daragan was also on the call. Do
you recall a conversation like that?

MS. ROBBINS: You are referring to

Han

Ms. Daragan's testimony yesterday?

Q. I'm saying it's my understanding that there was a call between you and Ms. Payne in which Ms. Daragan also participated, on this subject matter, in this time frame.

A. And I don't recall that. Which is not to say that it might not have happened. I don't have a recollection.

Q. I now want to go to what I believe is the last E-mail that is included in here, that takes place before the broadcast, which is a February 24 E-mail from Karen Daragan to you, Vic Han, and others, and that's on page 7, bottom of page 7, to the top of page 8. Do you see that?

A. Yes.

Q. Do you want to take a look at that.

It begins with -- let me ask you about the hard copy Chuck Wall. Who is Chuck Wall?

A. Chuck Wall is an attorney at Philip Morris.

Q. He works for Mr. Parrish?

A. No, sir. He reports to Murray Bring, the general counsel, Philip Morris Companies,

Han

Inc.

Q. Chuck Wall is a lawyer for Philip Morris Companies?

A. Yes.

Q. And Denise Keane, do you know who she is?

A. Yes. She is also an attorney, and she is Philip Morris U.S.A.'s attorney, or one of Philip Morris U.S.A.'s attorneys. U.S.A. is her client. She's an inside lawyer, but U.S.A. is her client, or her responsibility.

Q. Does the E-mail that you have at Philip Morris U.S.A. allow you to send E-mails to persons at Philip Morris Companies?

MS. ROBBINS: At the time this E-mail was sent?

MR. PAYTON: Yes, at that time.

Q. If you know.

A. To those who have the appropriate equipment, yes.

Q. This E-mail begins with "As discussed, Walt Bogdanich called me last night from ABC Day One." Do you recall discussing this telephone conversation with Ms. Daragan?

1 Han

2 A. I'm afraid I don't.

3 Q. Do you know why it is created as an
4 E-mail the next day?

5 MS. ROBBINS: As opposed to some
6 other time?

7 Q. As opposed to the day before, when
8 the conversation took place.

9 A. No, sir.

10 Q. I'm going to the second paragraph,
11 where it reads, "He," that's Mr. Bogdanich, "says
12 now in addition to focusing on nicotine addiction
13 with bites from Koop and addiction specialists,
14 they will make the charge that cigarette
15 companies are artificially adding nicotine to
16 cigarettes rather than naturally using tobacco
17 leaf." Let me stop there for a second.

18 Is that what you learned from RJR
19 after you had the conversation with them about
20 the interviews of the RJR scientists?

21 MS. ROBBINS: Is the substance of
22 that sentence --

23 Q. Is the substance of that something
24 that you had already learned as a result of your
25 conversation with RJR about the interviews of the

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Han

RJR scientists?

A. I'm sorry, but I can't recall if I did or not.

Q. I am continuing in that same paragraph. "And, he has specific Philip Morris-related questions which follow. He wants comments on these three things." And it says in parens on the next page, "He does not want on-camera interview. Had industry person already. Wouldn't tell me who. Assume RJR scientist. Phone comment from us will do." Let me stop there.

Had you told Ms. Daragan about your conversation with RJR about the interviews of their scientists, do you know? I'm asking because it says assume RJR scientist, so I'm wondering if you had told Ms. Daragan that you knew there had been an interview of RJR scientists.

MS. ROBBINS: I think he has already testified that he doesn't recall whether Ms. Daragan was part of that conversation.

MR. PAYTON: No, no, I understand she wasn't part of that conversation.

1 Han

2 Q. I am asking if you had related the
3 conversation or the substance of the conversation
4 to Ms. Daragan.

5 MS. ROBBINS: Wait. One of us is
6 misspeaking. I'm not saying she wasn't part of
7 the conversation. Mr. Han's testimony was that
8 he could not recall whether she was part of that
9 conversation. Ms. Daragan's testimony, you will
10 remember yesterday, was not that. So if you are
11 just trying to find out whether he had a
12 recollection of telling her about this, that's
13 fine, but the record is what the record is.

14 MR. PAYTON: That's fine. And I'm
15 just trying to find out what he did, what he
16 remembers.

17 Q. And from this, I'm asking simply
18 because it looks like she is not aware of the RJR
19 scientist being interviewed, if you recall having
20 told her or you recall not having told her.

21 A. I do not --

22 MS. ROBBINS: Finish and then I will
23 say what I have to say.

24 A. I do not have a specific recollection
25 of having discussed it with Karen.

1 Han

2 MS. ROBBINS: I will object to your
3 characterization of what this E-mail does or does
4 not suggest.

5 Q. The next thing are the three numbered
6 items that she had said that Day One wanted
7 comment on. The first reads, "He has Philip
8 Morris shipping records from the late eighties
9 that show we received thousands of gallons of an
10 alcohol called SDA 4, specially denatured alcohol
11 with nicotine. This alcohol has been rendered
12 undrinkable, and the only federally approved use
13 has for tobacco companies - for use in
14 cigarettes."

15 Were you familiar with denatured
16 alcohol at that time?

17 MS. ROBBINS: At the time that this
18 E-mail was written?

19 MR. PAYTON: Yes, at the time of this
20 E-mail, which is February 24, 1994.

21 A. With this denatured alcohol?

22 Q. With denatured alcohol.

23 A. Just in general?

24 Q. I will make it more specific. With
25 alcohol denatured with nicotine being used in any

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1 Han

2 cigarette manufacturing.

3 A. No, sir.

4 Q. I take it from that that you also
5 weren't familiar with this denatured alcohol,
6 SDA4?

7 A. No, sir.

8 Q. You didn't know if alcohol denatured
9 with nicotine was or wasn't used in cigarettes?

10 MS. ROBBINS: At the time of this
11 E-mail?

12 MR. PAYTON: February 24, 1994.

13 MS. ROBBINS: At the time of this
14 E-mail? I'm being even more specific than that.
15 Or at the time you first --

16 MR. PAYTON: February 24, 1994 is the
17 date of this E-mail.

18 A. No, I did not know about it.

19 Q. Let's go to the second, number 2.

20 "He has William L. Dunne, Jr., former Philip
21 Morris R&D guy, memos. He said in 1972 at a CTR
22 conference in St. Martin that Dunne said to the
23 group, 'you must not think of cigarettes as a
24 product; think of it as a package like a nicotine
25 delivery system/storage pack for nicotine.'"

1 Han

2 Did you know at this time, February
3 24, 1994, who William L. Dunne was?

4 A. Yes, sir.

5 Q. Who was he?

6 A. A former scientist for Philip Morris.

7 Q. Was he a former scientist then? Did
8 he work for Philip Morris then?

9 A. When is "then"?

10 Q. 1994. You knew then that he was a
11 former Philip Morris scientist?

12 A. Yes, sir.

13 Q. Were you familiar with the memos that
14 are being referred to and apparently quoted from
15 in number 2 here?

16 A. I do not have any idea which memos he
17 is -- that are being referred to here.

18 Q. In February, February 24, 1994, were
19 you familiar with any of his memos, Mr. Dunne's
20 memos?

21 A. No, sir, I don't believe I was.

22 Q. Were you familiar with this CTR
23 conference, this 1972 CTR conference?

24 A. No, sir.

25 Q. Number 3, "Question track: a) Do we

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1 Han

2 use reconstituted tobacco in cigarettes? b) If
3 so, do we treat it with tobacco extract? c) Does
4 the tobacco extract contain nicotine?"

5 Did you know if Philip Morris used
6 reconstituted tobacco in cigarettes at that time?

7 A. Yes, sir, I did.

8 Q. You knew that they did?

9 A. Yes, sir.

10 Q. Did you know if Philip Morris treated
11 its reconstituted tobacco with tobacco extract?

12 A. No, sir, I did not.

13 Q. Did you know what tobacco extract
14 was?

15 A. No, sir.

16 Q. So you didn't know if tobacco extract
17 contained nicotine?

18 MS. ROBBINS: At the time.

19 Q. At the time.

20 A. At the time, no, this was the first
21 time I had ever heard of the term.

22 Q. The next paragraph reads, "That was
23 it. As stated above, the piece is airing Monday
24 night. He would like comment by Friday afternoon
25 at the latest, and would appreciate knowing if he

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1 Han
2 is going to get something by today as they put
3 finishing touches on piece."

4 Next paragraph, "Please advise on how
5 this should be handled. Thanks. KD."

6 Do you recall talking to Ms. Daragan
7 about this E-mail?

8 A. I recall speaking to Karen about the
9 substance of this E-mail.

10 Q. And what do you recall?

11 A. I don't recall, you know, what was
12 said.

13 Q. Do you know if anything was done as a
14 result of your conversation with her?

15 MS. ROBBINS: By Mr. Han?

16 Q. By yourself, or by Ms. Daragan.

17 A. I have a recollection of meeting with
18 Mr. Parrish and Mr. Wall on these subjects.

19 MS. ROBBINS: Before you go on, John,
20 I'm going to advise Mr. Han that he should not
21 testify to the substance of any conversations
22 that he had with Mr. Parrish or Mr. Wall in this
23 time frame, because they would be attorney-client
24 privileged. Otherwise, you can answer Mr.
25 Payton's question.

Han

MR. PAYTON: Barbara, are you familiar with the content of the conversations he had with Mr. Parrish and Mr. Wall during this time period?

MS. ROBBINS: Yes, I am.

Q. Did you arrange the meetings with Mr. Parrish and Mr. Wall? Did you ask to meet with them?

A. I don't recall if I asked or I was called or just went upstairs. I don't recall.

Q. Did you believe you needed legal advice before you could decide how to proceed?

A. Yes, sir.

Q. And do you recall when you would have had the first of any meetings with Mr. Parrish and/or Mr. Wall? This same day, February 24?

A. Oh, it would have been the same day.

Q. Did you have more than one meeting with them?

A. Yes, sir.

Q. On that same day?

A. That I can't recall.

MR. PAYTON: Let's mark this as Han next.

1 Han

2 EXB (Han Exhibit 8 for
3 identification, two-page document, Philip Morris
4 interoffice correspondence, to a distribution
5 list, from Mr. Han, dated February 25, 1994, with
6 attachment.)

7 Q. Mr. Han, I have had marked as Exhibit
8 No. 8 a two-page exhibit. Page number 1 is a
9 Philip Morris interoffice correspondence, dated
10 February 25, 1994, from you to a distribution
11 list, and attached to it is a two-paragraph
12 document that has as its heading "Statement from
13 Philip Morris U.S.A." Do you see that?

14 A. Yes, sir.

15 Q. What was your role, if any, in
16 drafting or creating this statement that's
17 attached?

18 A. I drafted it and submitted it for
19 approval and for edits.

20 Q. And this statement was to be in
21 response to the three issues that were raised in
22 the E-mail on February 24?

23 MS. ROBBINS: What three issues?

24 Q. Go back to page 8 of the E-mails. We
25 are at the top of page 8. The 1, 2, 3, do you

1 Han

2 see that, that we just went over?

3 A. Um-hum.

4 Q. My question is, was this to be in
5 response to any or all of those three numbered
6 paragraphs?

7 A. This was in response to the charge
8 that cigarette companies are artificially adding
9 nicotine to cigarettes. In addition, of course,
10 it addresses Dr. Dunne.

11 Q. That charge is at -- the second
12 paragraph of this same E-mail contains that
13 charge; right?

14 A. Yes, sir.

15 Q. But I actually want to ask you a
16 different question, which is whether or not you
17 drafted this statement to also be in response to
18 the three numbered paragraphs.

19 MS. ROBBINS: I object to the form of
20 the question. And I object to you using the word
21 "also," which suggests that those are different
22 from the general charge.

23 A. Could you ask me the question again.
24 please?

25 Q. Sure. I will ask you a slightly

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Han

different question.

Was your statement, the statement that you drafted, intended to be responsive to the three numbered paragraphs at the top of page 8 in the E-mail?

A. Yes, sir, it was. It was responsive to the charge, and these three points were subsets of that charge, as far as I was concerned.

Q. Is there an earlier version of this statement? Did you prepare a draft and was it edited and this is the final, or did you write this and this is it?

A. No, it was edited.

Q. Do any of the prior versions still exist, or do you know?

A. I do not know.

Q. Who participated in the editing of your draft?

A. Mr. Wall, Mr. Parrish. That's the editing. There were others who looked at it for substance. And also it was shown -- reviewed by a number of other people to get their input as to whether they thought this is appropriate. That

1 Han

2 would include, as I said, experts, but also
3 people in our Washington, D.C., office.

4 Q. Do you remember who the other people
5 were that reviewed this to give their input?

6 A. Well, that was conversation --

7 MS. ROBBINS: He is not asking for
8 the substance of any conversation. He just wants
9 to know the names of people that you remember who
10 looked at it.

11 A. Not necessarily looked at it but
12 heard it and said this is right, for example.

13 Q. It was read to them over the phone,
14 you mean?

15 A. Correct. I believe Mr. Charles heard
16 it. There might have been others besides him.

17 Q. Who was Mr. Charles?

18 A. He was the retired scientist for
19 Philip Morris. His name appears in my notebook.

20 Q. In your notes, right.

21 A. And I don't know who else reviewed it
22 in Washington, but I did have a conversation with
23 Buffy Linehan.

24 Q. Who is that?

25 A. She's the head of our Washington,

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Han

D.C., office.

Q. The experts that you referred to, who were they?

A. I'm referring to Jim Charles, for example.

Q. Why didn't Ms. Daragan review it?

MS. ROBBINS: He hasn't said that she hasn't, but you can ask --

A. I don't know that she did or did not. She very well could have.

Q. She may have?

A. Sure.

Q. You don't remember?

A. Correct.

Q. Once this statement was produced, once the editing process was complete, what happened next? What did you do with it?

MS. ROBBINS: You are asking him what he did with it or what happened to it?

MR. PAYTON: Yes.

Q. What did you do with it?

A. I do not know what I did with it, except distribute it, as indicated here.

Q. And this distribution, the little

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1 Han

2 memo, says, "Attached is the approved statement
3 that was faxed to ABC's Day One this afternoon.
4 We will not be answering any questions and do not
5 intend to provide any further information."

6 That is that was that a decision that
7 you made or you made in collaboration with
8 others?

9 A. It would have been made in
10 collaboration.

11 Q. And who did you collaborate with in
12 order to make that decision?

13 A. I couldn't say for sure. It would
14 have been several people. I mean, Mr. Parrish
15 and Mr. Wall would certainly have been part of
16 it. I don't know who else would have been.
17 Undoubtedly there were others.

18 Q. You have testified that this
19 statement is responsive to both the general, I
20 think you say, charge that was contained in the
21 E-mail, as well as the three numbered paragraphs,
22 which I think you described as subsets.

23 A. Yes, sir.

24 Q. Do you know, do you remember, if
25 earlier drafts of this statement contained

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Han

specific responses to the three numbered paragraphs?

A. I believe it did.

Q. And those didn't survive the editing process?

A. That's correct.

Q. On the 25th of February -- well, let me ask. When did you begin drafting this statement, on the 24th or the 25th, if you remember?

A. I'm sorry, I don't recall. I don't know.

Q. One of those days, though?

A. It would have been soon after we got that -- soon after that E-mail.

Q. The E-mail is dated on the 24th. I believe it is actually timed at 12:55 on the 24th. Do you see that?

A. Yes.

Q. And the statement is distributed on the 25th. So on one of those two days you were working on this, maybe both days?

A. That's correct, yes.

Q. When you were working on it,

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Han

whichever days that is, did you come to know the answer to what I'm calling question number 1, issue number 1, which is the use of denatured alcohol, denatured with nicotine, in the making of cigarettes by Philip Morris?

MS. ROBBINS: I will object to your characterization of it as an issue. Subject to that, he could answer the question.

A. I'm sorry, could you ask me the question again?

Q. Sure. Did you come to know, in the course of drafting this statement, whether or not Philip Morris used alcohol denatured with nicotine in the manufacture of cigarettes?

MS. ROBBINS: I would ask you to exclude from your answer any information or discussions about what Mr. Payton is referring to here with counsel.

MR. PAYTON: Hold it, before he answers that. I don't understand that objection. I'm simply asking if he was aware of that information when he wrote this answer.

MS. ROBBINS: Okay. Wait a minute. If he was aware of information with respect to --

1 Han

2 MR. PAYTON: I'm going to read the
3 question again, and listen to it.

4 Q. Did you come to know, in the course
5 of drafting this statement, whether or not Philip
6 Morris used alcohol denatured with nicotine in
7 the manufacture of its cigarettes?

8 MS. ROBBINS: You could answer the
9 question yes or no.

10 A. Yes, sir.

11 Q. And what's the answer to the
12 question? Did Philip Morris use alcohol
13 denatured with nicotine in the manufacture of its
14 cigarettes?

15 MS. ROBBINS: Again, without
16 revealing the substance of any legal advice or
17 legal discussion that you had in conversations
18 with Mr. Parrish and Mr. Wall or any other
19 attorney, you can answer the question.

20 A. Could you ask me the question again?
21 I'm sorry.

22 Q. Did Philip Morris use alcohol
23 denatured with nicotine in the manufacture of any
24 of its cigarettes?

25 A. Yes, sir.

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Han

Q. Did it use it in connection with the manufacture of all of its cigarettes?

A. I do not know that.

Q. Do you know if it used this specific alcohol, SDA4?

A. Yes, sir.

MS. ROBBINS: That was, again, did you know at the time.

Q. Yes, did you know at the time.

A. When I was drafting the statement?

Q. Yes.

A. Yes, sir. It's the only one you're allowed to use.

Q. And you have learned that in these two days?

A. Yes, sir.

MS. ROBBINS: The two-day period of the 24th and 25th?

MR. PAYTON: 24th and 25th.

MS. ROBBINS: Actually it says so in the E-mail. ABC knew that, too. That's what the E-mail says. The only federally approved use has been for tobacco companies for use in cigarettes.

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Han

MR. PAYTON: Yes, but he did not know anything about the use of denatured alcohol or SDA4 when he read the E-mail.

MS. ROBBINS: I'm just saying that it was something that was articulated in the E-mail.

MR. PAYTON: Yes.

Q. I take it that your source of the information that the only approved use for SDA4 was not Day One?

A. That's correct.

Q. And when you drafted this statement, that's on the 24th and/or the 25th of February 1994, were you aware of William L. Dunne's memos in which he talked about cigarettes as a package like a nicotine delivery system?

A. That's sort of like two questions.

Q. I didn't intend it to be. I am simply asking if you learned in those two days information that was responsive to number 2 here.

A. I knew information about that long before then.

Q. Okay. Why don't you tell me what information you knew about that long before that.

Han

A. Mr. Dunne's documents were part of the Cipollone trial in 1988, and it was at that point that this quote, which I'm not sure is a hundred percent accurate, first came to my attention.

Q. So you were aware of a quote like this?

A. Similar to that.

Q. Similar to this, before it was presented in this E-mail to Philip Morris?

A. Yes, sir.

Q. I think I asked you earlier if you were familiar with Mr. Dunne's memos, and you said you were not.

A. I'm not familiar with the memos.

Q. Did you become more familiar or familiar at all with his memos on February 24-25?

A. No, sir.

Q. Did you learn any additional information about Mr. Dunne, this statement that he is purported to have made, on February 24 or February 25?

A. That was new compared to what I knew in 1988?

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Han

Q. Yes.

A. No, sir.

Q. You had no additional information about Mr. Dunne, the 1972 conference, or this quote, or a quote similar to this, when you worked on the draft response?

A. No, sir.

Q. Yes, sir, you mean?

MS. ROBBINS: No, sir, he did not. Is that correct?

THE WITNESS: Yes.

Q. Turning to number 3 in the E-mail, the three questions about reconstituted tobacco, did you learn on February 24 and/or February 25 whether or not Philip Morris used tobacco extract in connection with its reconstituted tobacco?

MS. ROBBINS: Again, subject to my same admonition about not revealing legal advice from counsel in any discussions you had, you can answer the question.

A. I'm sorry, I have to ask you to ask it one more time. Or read it back.

Q. I'm going to read it.

Did you learn on February 24 and/or

1 Han

2 February 25 whether or not Philip Morris used
3 tobacco extract in connection with its
4 reconstituted tobacco?

5 A. Yes, sir, I did learn.

6 Q. And did it use tobacco extract?

7 A. It had in the past, as part of a
8 flavor package.

9 Q. Did you learn what tobacco extract is
10 at that time, February 24 and February 25?

11 A. No, sir.

12 Q. You were just told that Philip Morris
13 had used tobacco extract in the past, and I
14 believe you said as part of a flavor package?

15 A. It was part of a flavor package that
16 was purchased from a supplier, and that's what I
17 learned, yes, sir.

18 Q. What's a flavor package?

19 MS. ROBBINS: Are you asking now, are
20 you asking then?

21 MR. PAYTON: I'm asking him now.

22 A. Flavor package?

23 MS. ROBBINS: If you know.

24 A. I cannot say with certainty. I'm
25 sorry.

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Han

Q. Did you know what a flavor package was on February 24 and February 25?

A. Yes, sir.

Q. Did you learn on February 24 and/or February 25 whether or not tobacco extract contained nicotine?

A. I learned that it contained miniscule amounts of nicotine -- I'm sorry, excuse me, I learned that it contained nicotine. That's right.

Q. Did you learn that it contained significant quantities of nicotine?

A. I did not know what the quantities were.

Q. You said that you had learned that Philip Morris had used tobacco extract as part of a flavor package that was purchased by a supplier --

A. From a supplier.

Q. -- from a supplier in the past.

A. Yes, sir.

Q. How long ago had that practice been occurring?

MS. ROBBINS: You are asking whether

Han

he learned at that time that fact?

MR. PAYTON: Yes.

Q. Did you know then when --

A. I learned at that time.

Q. How recently had Philip Morris used tobacco extract in a flavor package purchased from a supplier in the manufacture of cigarettes at that time?

MS. ROBBINS: As of the 24th or 25th, when you learned the information, what did you learn about the time that Philip Morris was using tobacco extract in a flavor package? Is that the question?

MR. PAYTON: Yes.

A. Until the end of 1993 for one brand.

Q. What was the brand?

A. Merit.

MR. PAYTON: I think I am for
stopping now. I have more to go yet, but let's
break for lunch.

THE VIDEO OPERATOR: It is 1:03, and we are off the record.

(Luncheon recess: 1:03 p.m.)

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1 Han

2 A F T E R N O O N S E S S I O N

3 2:00 p.m.

4 V I C T O R H A N,

5 resumed, having been previously duly sworn, was
6 examined and testified further as follows:

7 THE VIDEO OPERATOR: It is 2:02, and
8 we are back on the record.

9 CONTINUED EXAMINATION

10 BY MR. PAYTON:

11 Q. Mr. Han, when we broke for lunch you
12 had identified the brand, the Philip Morris
13 brand, that contained, I guess, a flavoring that
14 had tobacco extract in it but was discontinued in
15 December of 1993 as Merit?

16 A. Flavor package.

17 Q. A flavor package.

18 MS. ROBBINS: And what was
19 discontinued is the use of the flavor package,
20 not Merit.

21 Q. Did you know in February, February 24
22 or 25, 1994, if Philip Morris had used tobacco
23 extract in any other of its brands prior to
24 December of 1993?

25 MS. ROBBINS: It's been asked and

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Han

answered.

MR. PAYTON: I don't believe it has been.

MS. ROBBINS: He has given you testimony on what he knew at the time about its use.

Q. You can answer.

A. Could you say it again? I'm sorry.

Q. Sure. Did you know in February, February 24-25, if Philip Morris had used tobacco extract in any other of its brands prior to December of 1993?

A. No, sir.

MS. ROBBINS: Just a minute.

The reason I'm looking, your previous question was how recently had Philip Morris used tobacco extract in a flavor package purchased from a supplier in the manufacture of cigarettes at the time, and he answers the question, "Until the end of 1993 for one brand." Now, I don't understand how the new question that you asked him is different from the previous question and how the response is different.

Q. This the difference I was seeking. I

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Han

understand that Philip Morris, or that you learned or were told that the last brand that Philip Morris had used a tobacco extract in was Merit at the end of 1993.

MS. ROBBINS: I guess that's my quarrel with you. I don't think his testimony was the last brand. I think his testimony was one brand.

Q. And my question is, I will take Ms. Robbins' version of that, was it your understanding that that was the only brand that Philip Morris had ever used tobacco extract in?

A. I don't know if there were others or not.

Q. You just know that that was the last one?

A. I don't know if it was the last one. I just know that it was -- at the time it was the only one that was brought to my attention.

Q. Since that time, since February 24 or February 25, have you learned of any other brands, any other Philip Morris brands, that were made prior to that time, prior to February 24-25, that contained tobacco extract?

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Han

A. No, I haven't.

Q. Did you inquire on February 24-25 of anyone at Philip Morris whether or not there were other Philip Morris brands that had used tobacco extract in them besides Merit?

MS. ROBBINS: You can answer that yes or no. My only point is I don't want you, and I don't know whether it calls for this, but I don't want you to reveal the substance of any conversations with counsel.

THE WITNESS: Right.

MS. ROBBINS: Subject to that, certainly answer the question.

A. Could you ask it again? I'm sorry.

Q. Did you inquire, during this February 24-25 period, of anyone at Philip Morris whether or not there were other Philip Morris cigarette brands that had used tobacco extract besides Merit?

A. I don't know that -- I can't recall whether I did or did not.

MR. PAYTON: Barbara, I think I want to understand what the instruction was you just gave to Mr. Han about subject to. And I will

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1 Han

2 tell you what my concern is.

3 MS. ROBBINS: Sure.

4 MR. PAYTON: It is if he learned a
5 fact, such as the fact I just asked him about,
6 were you told by anyone that there were other
7 Philip Morris brands that used tobacco extract, I
8 believe he should be allowed to answer the
9 question which is simply seeking that fact. And
10 if your instruction was that he will give an
11 answer as though he did not know that fact if he
12 learned it from a lawyer, then I want to
13 understand that from you. Did you understand
14 what I'm saying?

15 MS. ROBBINS: That's not my
16 instruction. There were meetings with lawyers,
17 as you have been told by Mr. Han, in which a lot
18 of information was discussed and in which legal
19 advice was given and sought and information was
20 provided for the purpose of obtaining legal
21 advice. I am trying very hard to let him be
22 responsive to your questions without revealing in
23 any way the substance of those legal meetings.
24 And it's not that easy an area, but we have no
25 intention of waiving the privilege with respect

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1 Han

2 to those areas.

3 I think, on this question, Mr. Han,
4 you can tell, because I think I know the answer,
5 you can tell Mr. Payton whether you are not
6 saying something because of the attorney-client
7 privilege.

8 THE WITNESS: No.

9 MR. PAYTON: Thank you.

10 Q. When you say in your answers to this
11 last two or three questions about the use of
12 tobacco extract in Philip Morris brands of
13 cigarettes, does that cover brands made in the
14 United States, wherever they are sold, or just
15 brands sold in the United States, or are you
16 making no such distinction?

17 MS. ROBBINS: Let me just read your
18 question.

19 Q. Did you understand my question?

20 A. I think so.

21 MS. ROBBINS: You can answer the
22 question whether you are making any distinction,
23 and then we can see where that goes.

24 A. I'm not making any distinction,
25 but --

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1 Han

2 MS. ROBBINS: We believe, as you
3 know, that in discovery in this case, on a
4 question like this, you are entitled to ask
5 questions of the right witnesses who have
6 knowledge with respect to cigarettes manufactured
7 and sold in this country. We think that was the
8 judge's discovery order, and that's what I think
9 you are entitled to ask.

10 MR. PAYTON: I understand your
11 relevance point. I think I'm entitled to get an
12 answer from this witness on this, though.

13 A. I haven't been making a distinction.
14 I do not know whether the points I've made apply
15 to all -- both international and domestic brands.

16 Q. Does it apply to all domestic
17 production?

18 A. I do not know.

19 MS. ROBBINS: I'm not sure I
20 understand the distinction you're making, John.
21 Domestic brands versus domestic production?

22 Q. Do you know if Philip Morris
23 produces, for example, in its Richmond facility,
24 cigarettes that are sold outside of the United
25 States?

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Han

A. Yes, sir.

Q. It does?

A. Yes, sir.

Q. That's the distinction I'm making.

And your answer did not make any distinction like that, or did it?

A. I have not been making distinctions.

But, as I said -- well, I haven't been making distinctions.

MR. PAYTON: I'm going to ask you a series of questions, and I guess, Ms. Robbins, I'm going to let you raise objections as you see fit, but I want to alert you that you may want to object, so you may want to let her object before you answer. I don't intend to trick the witness.

Q. The information that you acquired on the 24th and 25th of February about the use of alcohol denatured with nicotine that Philip Morris used in its production of cigarettes, from whom did you receive that information?

MS. ROBBINS: I am going to object if the only source -- if the source of your information comes solely from attorneys or from

Han

meetings with attorneys where information was provided for the purpose of receiving legal advice, I don't believe he should be testifying to that, and I would instruct him not to answer as to that source.

If that's not clear to you, we can take a break and I can try to understand what it is that he wants to say, and let you know whether there is any room for an answer to that question.

MR. PAYTON: Okay. The break may be helpful. But let me ask a few more questions so that you understand where I'm going.

MS. ROBBINS: Sure.

Q. Was the purpose of the meetings that were occurring on either the 24th and/or the 25th with persons that included the lawyers that you have identified, some of the meetings I understand were maybe only with the lawyers, I'm not sure, was the purpose of those meetings to work on the creation of the statement whose final form we have been looking at in Han Exhibit -- you can tell me what the exhibit number is. It's the February 25 statement.

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Han

A. 8.

Q. Han 8. Was that the purpose of those meetings, to generate this statement?

MS. ROBBINS: You can answer that.

A. No, sir.

Q. What was the purpose of the meetings?

MS. ROBBINS: Again, without revealing substance, if the purpose was to either get legal advice or collect information for the purpose of legal advice, you can tell him that. Don't reveal the substance of the meeting.

A. It was to obtain information for legal advice.

Q. I want to try, if it's possible, to focus on the process that takes place which results in the creation of this statement, which is Han Exhibit 2, the February 25 statement, and the inputs that you received, factual inputs that you received, that go into your first draft and your edits and your redraft, and end up in this final version.

MR. PAYTON: I don't understand how any of that is affected by any privilege claims

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Han

at all. And that's the line of questioning I would like to pursue.

That's where I am. And if it would be helpful for you to break and talk to the witness, that's fine. I have asked the additional questions just so you see where I'm going and why I'm having a little trouble.

MS. ROBBINS: Let me see if I can understand what you're saying. When you talk about the factual inputs that go into the statement, we obviously have no problem with him testifying to facts that become public, which is what I think you're sort of saying. This statement obviously goes to ABC. It's not a privileged communication of any sort. As the days go on, a lot of the information becomes public information, and he is a communicator with the public.

I have no problem with him testifying to facts that become public. I think you are entitled to know what he knew about those facts that become public. But I'm having a lot of difficulty drawing a line here, because he attended meetings with lawyers where legal issues

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1 Han

2 were discussed, where information was gathered
3 for the purpose of giving legal advice, and
4 you're trying to divert a distinction between
5 that and what you are calling facts that I guess
6 have some input into the statement. And I'm not
7 sure how to do that. But we are not prepared to
8 waive the privilege with respect to those
9 meetings.

10 On the other hand, obviously, the
11 facts that become public I'm happy for you to
12 know about.

13 MR. PAYTON: Here are my two
14 premises. I believe that any fact that Mr. Han
15 becomes aware of, and right now it's just these
16 two days, any fact that he becomes aware of, I
17 believe I'm entitled to know it. And I think I
18 have learned --

19 MS. ROBBINS: I just want to
20 understand your position. Even if those are
21 facts that are communicated during the course of
22 a meeting with lawyers for the purpose of
23 obtaining legal advice?

24 MR. PAYTON: If he learned a fact?

25 MS. ROBBINS: If during the course of

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1 Han

2 a meeting with lawyers, during which legal advice
3 was sought and being given, facts, normally one
4 goes to one's lawyer with facts and says, you
5 know, these are the facts, what's my legal
6 advice, my understanding of the law is the
7 information provided to lawyers in the course of
8 a meeting for the purpose of obtaining legal
9 advice is privileged information.

10 MR. PAYTON: These are facts he
11 learned, Mr. Han learned.

12 MS. ROBBINS: He's at a meeting with
13 lawyers as part of this process.

14 MR. PAYTON: And they are supplying
15 him with facts? That must be how this goes?

16 MS. ROBBINS: No, the lawyers don't
17 have to be supplying the facts.

18 MR. PAYTON: I'm interested in facts
19 Mr. Han learns, not that he provides to the
20 lawyers. Facts that he learns.

21 MS. ROBBINS: But he is a Philip
22 Morris person at a meeting, hearing information
23 being provided for the purpose of obtaining legal
24 advice.

25 MR. PAYTON: This is a libel action.

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1 Han

2 MS. ROBBINS: I understand that.

3 MR. PAYTON: In which Philip Morris
4 has claimed that certain things that were
5 broadcast were not true.

6 MS. ROBBINS: That's right.

7 MR. PAYTON: And I'm inquiring as to
8 what Mr. Han knew as far as the facts that I
9 believe are clearly relevant to the questions
10 Philip Morris had been asked by ABC.

11 MS. ROBBINS: And he's told you what
12 he knew. He told you clearly what he knows, or
13 what he knew at the time.

14 MR. PAYTON: So now the question is,
15 my first point is, I believe I'm entitled to all
16 of the facts that he was aware of on February 24
17 and 25 that go to this.

18 And the second point is -- and I
19 understand your concerns, I'm not saying I know
20 an answer to them, but that's my first point. My
21 second point is the question that began this,
22 which is from whom did you learn these facts, and
23 I'm trying to be very particular. And I
24 understand some of that you may claim privilege,
25 some you may not, because some of it he may have

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1 Han
2 learned from a nonprivileged source.

3 MS. ROBBINS: That's possible.

4 MR. PAYTON: Those are the two lines
5 of inquiry here. Can I learn the facts, and from
6 whom did he learn the facts.

7 Do you need to break?

8 MS. ROBBINS: I think it's created a
9 problem, because, as I said, I think we have a
10 very legitimate attorney-client privilege to
11 protect here. Maybe we should caucus to see if
12 there's a way of solving this and we should go
13 off for a few minutes and take a break.

14 MR. PAYTON: Fine.

15 THE VIDEO OPERATOR: It is 2:22, and
16 we are off the record.

17 (A recess was taken.)

18 THE VIDEO OPERATOR: It is 2:34, and
19 we are back on the record.

20 MS. ROBBINS: Okay, John, let me tell
21 you where we are. We are prepared to let Mr.
22 Han, who was in these meetings as a media
23 relations person and who, obviously, to some
24 extent, relied on facts that he learned to be
25 able to inform his knowledge when he wrote this

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1 Han

2 statement and other statements that he made to
3 the public, we are prepared to let him testify to
4 the facts that he came to understand, even if he
5 came to understand them only at such a meeting at
6 which counsel was present, if you are prepared to
7 agree with us that neither his testimony, nor our
8 agreement to let him testify to that, will
9 constitute either a waiver or a precedent with
10 respect to the attorney-client privilege as to
11 other communications, whether at meetings that he
12 attended or otherwise.

13 MR. PAYTON: Does that mean that with
14 respect to these meetings that happened on the
15 24th and 25th, you are withdrawing any claim of
16 privilege?

17 MS. ROBBINS: No.

18 MR. PAYTON: Well, let's take any
19 hypothetical meeting that's happening on the 24th
20 and 25th. He testifies as to facts he learns
21 from a lawyer. Are you saying that we can use
22 that answer for any purpose?

23 MS. ROBBINS: I am saying that as to
24 facts that he learns for the purpose of -- I'm
25 not just limiting it to this statement -- for

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1 Han

2 either writing the statement or communicating
3 with the public about the issues that you have
4 raised in the E-mail, as to those facts I will
5 let him testify as to those facts, provided that
6 the agreement to let him testify to those
7 facts -- neither the agreement nor the testimony
8 itself will be deemed to constitute any kind of
9 waiver of the privilege with respect to other
10 things that happened at those meetings or other
11 communications.

12 MR. PAYTON: Okay. Although we could
13 use his answers for any purpose?

14 MS. ROBBINS: His answering are
15 usable. They just are not a waiver or precedent
16 in any way for other things that took place at
17 those meetings or at other times. And I want it
18 to be clear that what he is testifying to is
19 facts that he came to know for the purpose of
20 being able to fulfill his function as a person
21 who would be communicating, whether through this
22 statement or in other statements, with the public
23 about those facts. I have no problem with him
24 telling you about what he learned in that regard,
25 as I said, provided that it doesn't constitute a

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1 Han

2 waiver or precedent with respect to other things
3 said at the meeting or other meetings.

4 MR. PAYTON: I understand the
5 conditions under which you would like us to
6 receive this testimony, and I'm willing to
7 agree. But I will tell you that I am not
8 convinced that these claims of privilege are
9 well-taken, and we may at some later time pursue
10 that issue separate from this. But I understand
11 it's preserved.

12 MS. ROBBINS: And that his testifying
13 now is not a waiver in any way of that position,
14 obviously.

15 MR. PAYTON: That's correct. It's
16 not a waiver of that position. But you are not
17 limiting our use of his testimony.

18 MS. ROBBINS: Of his answers on this,
19 that's right, not a waiver and not a precedent.
20 Okay. I think what we said is clear.

21 Subject to that, then, Mr. Han, you
22 can testify as to facts that you learned, even if
23 they were learned at meetings at which lawyers
24 were in attendance, or even from the lawyers.
25 But we are talking about facts, not legal advice,

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1 Han
2 not legal strategy. Facts.

3 BY MR. PAYTON:

4 Q. Mr. Han, would you change any of the
5 answers you have given so far in light of the
6 understandings we just reached, that is, did you
7 not provide a complete answer as to facts you
8 were aware of because you were concerned about
9 these privilege concerns?

10 MS. ROBBINS: And if you have a
11 problem answering that and need to look at your
12 testimony, then I think he ought to. If you can
13 answer it, you are welcome to.

14 Q. Do you understand what I'm saying?

15 A. I believe I understand what you're
16 saying. I think you're asking me whether or not
17 this attorney-client privilege issue prevented me
18 from saying -- providing some of the facts on
19 some of these issues we've discussed thus far,
20 and the answer is no.

21 Q. Let me go back to a question that I
22 think began this whole line here, which is, with
23 respect to what is number 1 in the E-mail, which
24 is the use of alcohol denatured with nicotine, in
25 this time period, February 24-25, from whom did

Han

you receive the additional information about Philip Morris' use of alcohol denatured with nicotine in its manufacture of cigarettes?

A. I don't know how much additional there was. I cannot be specific as to the individual who I learned it from. But what I can tell you is it was one of possibly two or three scientists from Richmond.

Q. My recollection is that when we went over the E-mail this morning, and I asked what you knew about number 1, which is Philip Morris' use of alcohol denatured with nicotine, as well as the specific alcohol that is referenced in number 1, you testified that you did not have any knowledge about Philip Morris' use of alcohol denatured with nicotine when you received that E-mail.

A. Received this E-mail?

Q. Yes.

A. That's true. I didn't.

Q. So I was then asking, two questions ago, what information you received after receiving this E-mail about topic number 1, the use of alcohol denatured with nicotine, by Philip

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Han

Morris, because I thought you had also testified earlier that you came to understand that Philip Morris did use such alcohol, and that specific alcohol, in the manufacture of its cigarettes. Is that correct?

A. That's correct.

MS. ROBBINS: I think the problem is with the word "additional," John.

Q. And it is that information that, Philip Morris did use alcohol denatured with nicotine, and specifically the specific alcohol denatured with nicotine referenced in number 1, which is an alcohol called SDA4, that you received that information on the 24th and/or the 25th of February, and that's the information that you believe you received from two or three scientists in Richmond?

MS. ROBBINS: I think what he said is it was one of three possible scientists.

A. One of three possible scientists.

Q. One of three. I'm sorry. I misunderstood that.

A. I'm still a little confused as to what you're asking me. But let me just say that

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Han

all of the information I received, and all the information that I learned regarding denatured alcohol, came from these -- from those one or more of those three or four scientists, and it took place on conference calls, and it took place, you know, after this E-mail was received.

Q. There was a conference call after the E-mail was received?

A. Excuse me, I didn't say conference call. It was somebody on a speakerphone.

Q. One of the scientists in Richmond?

A. Correct.

Q. And you don't remember which one?

A. I can't recall exactly which one it was.

Q. Do you know the names of the three it might have been?

A. It could have been Jim Charles, Ken Houghton.

Q. How do you spell Houghton?

A. H-o-u-g-h-t-o-n. It could have been Richard Carchman.

Q. That's the person that's been in your notes a couple of times?

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Han

A. Yes. And it could have been Howard Burnley.

Q. Howard --

A. Burnley, B-u-r-n, I don't know if it is l-e-y or l-y.

MR. BOOKER: l-e-y.

Q. Is he in charge of the manufacturing facility?

A. No, sir.

Q. Who is Howard Burnley?

A. Howard Burnley I simply know as a scientist, research-type guy.

Q. And this call was with one of these people in Richmond?

A. I believe so. I could be mistaken. It could have been with somebody else. But it was somebody from Richmond, someone with a scientific background.

Q. Who else was on the call with you?

A. Well, for certain, Mr. Wall and Mr. Parrish. There might have been other people in the room, but I don't recall.

Q. And the purpose of this call was simply to figure out what Philip Morris did or

1 Han

2 didn't do with alcohol denatured with nicotine?

3 MS. ROBBINS: I object to the form of
4 the question. He told you what the meetings and
5 the calls were for.

6 Q. I don't recall you telling me that.
7 What was the call for?

8 A. The call was for gathering
9 information and seeking legal advice regarding
10 that information.

11 Q. But the call was just to get the
12 information?

13 MS. ROBBINS: For the purpose of
14 seeking legal advice with respect to it.

15 A. Right, what my lawyer just said.

16 MS. ROBBINS: Which you said just a
17 minute before.

18 Q. You had a telephone call with someone
19 from Day One that identifies three areas they
20 would like comment on. One of the areas is about
21 alcohol denatured with nicotine. And you have a
22 telephone call with a scientist to try to
23 understand the facts that relate to Philip
24 Morris' use of alcohol denatured with nicotine?

25 A. Yes, sir.

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1 Han

2 MS. ROBBINS: Telephone call with
3 scientists and others who he has told you about.
4 You're not giving all of the information. You're
5 asking him to answer questions without -- you
6 said you had a telephone call with a scientist,
7 but you failed to include that there were
8 attorneys on the phone as well, in that call.

9 MR. PAYTON: That's right.

10 MS. ROBBINS: Okay.

11 MR. PAYTON: I understand that.

12 MS. ROBBINS: So your question is
13 misleading when you frame it the way you frame
14 it.

15 MR. PAYTON: I don't think I misled
16 this witness. I'm about to ask him why any issue
17 of legal advice came up at all.

18 MS. ROBBINS: Wait a minute. Because
19 this is a privilege issue. The calls and
20 meetings that Mr. Han described earlier to you,
21 of which this is part of one call, were calls --
22 long calls, not just about one little thing, for
23 the purpose of, as we have said, gathering
24 information for the purpose of lawyers like Mr.
25 Wall and Mr. Parrish to be able to review the

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1 Han

2 information and formulate -- give legal advice
3 with respect to it vis-a-vis ABC. Now, you're
4 taking a tiny little piece of a conversation and
5 trying to say, oh, well, you couldn't possibly
6 have been seeking legal advice with respect to
7 denatured alcohol, and in doing that you are just
8 mischaracterizing his testimony.

9 MR. PAYTON: Ms. Robbins, I don't
10 think I'm mischaracterizing his testimony. I
11 think I'm going as deliberately and carefully as
12 I can so that you have all the opportunities you
13 need. And I am proceeding along, perhaps because
14 I don't understand the larger picture, but I
15 don't. And I don't understand how any issue of
16 legal advice or privilege comes up here. And I'm
17 going through the component parts of these
18 conversations and telephone calls as best I can.

19 Q. Mr. Han, can you tell me what caused
20 you to seek legal advice?

21 MS. ROBBINS: I don't know what
22 you're asking him. He has told you that he was
23 called to a meeting, which was not being run by
24 him, at which lawyers were present, at least Mr.
25 Parrish and Mr. Wall, and the meetings were

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1 Han

2 being -- and conference call, or calls, I don't
3 want to call them conference calls, were being
4 had for the purpose of Philip Morris' lawyers,
5 Mr. Wall, Mr. Parrish, and perhaps others, to be
6 able to gather information for the purpose of
7 their giving legal advice as to how to respond to
8 the overall issues in the E-mail to ABC. Now, I
9 don't understand what's so hard about that.

10 MR. PAYTON: The E-mail about ABC.

11 MS. ROBBINS: Well, the issues that
12 are raised with respect to seeking either comment
13 or otherwise on the subject areas, we will call
14 them, rather than issues, that you pointed to in
15 the E-mail.

16 You have been told that the meetings
17 were precipitated by, again, the subject areas
18 that were raised by Mr. Bogdanich in the E-mail
19 and his request for comment on or answers to
20 those subject areas generally, and the general
21 charge about artificially adding nicotine. And
22 you've been told that meetings were had and calls
23 were had in an effort to gather information and
24 for the purpose of the lawyers being able to
25 advise on how to respond.

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1 Han

2 Now, I don't understand what's so
3 hard about that.

4 THE WITNESS: May I go outside and
5 talk to you for just a second?

6 MS. ROBBINS: Relating to the
7 privilege issue?

8 THE WITNESS: On this issue.

9 THE VIDEO OPERATOR: It is 2:51, and
10 we are off the record.

11 (A recess was taken.)

12 THE VIDEO OPERATOR: It is 2:53, and
13 we are back on the record.

14 MS. ROBBINS: Mr. Han has advised me
15 of something, which I was not aware of, which I
16 would like him to tell you.

17 A. First off, I want to make clear, I'm
18 not speaking specifically about these issues here
19 or these specific meetings. I'm just going to
20 speak generally. Actually I guess I do have to
21 bring these in.

22 Any time there are questions
23 involving ingredients in the product, that is a
24 legal issue for us, whatever the circumstances
25 are. Any time I get a question from the public

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Han

or from the media, or anybody in my department does, regarding anything having to do with ingredients, it's a legal issue and I have to take it to the lawyers for legal advice.

Q. And is that the nature of your concern that led you to go to the lawyers for legal advice in this specific instance?

A. That, and also the issue of nicotine in general, and the alleged addiction issue that goes along with that, because that is part of the litigation, part of litigation of the company, and has been for some quite a long time.

Q. Any other reasons you would have gone to the lawyers?

MS. ROBBINS: Other than what he's already testified to?

MR. PAYTON: Yes, that's right.

MS. ROBBINS: Other than what's already been testified to.

A. At the moment I can't think of others, but those are the primary ones.

MR. PAYTON: With respect to the issue of ingredients, Ms. Robbins, am I right that the protective order confidentiality

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1 Han
2 agreement that we have in this case, that covers
3 discovery in this case and anything in the
4 deposition, should allay Mr. Han's concerns about
5 giving testimony about that concern?

6 MS. ROBBINS: In this room now?

7 MR. PAYTON: Yes, in this room now.

8 MS. ROBBINS: Yes. It could be
9 designated as trade secret. But you are not
10 attaching that to what he just said?

11 MR. PAYTON: Well, if the -- let me
12 separate this out and talk only about the concern
13 he raised about ingredients.

14 MS. ROBBINS: He is talking about as
15 of the 24th and 25th. You understand that?

16 MR. PAYTON: Yes.

17 MS. ROBBINS: There was no protective
18 order then.

19 MR. PAYTON: Yes, I understand that.
20 But the issue is the concerns that he may have
21 had then that relate to trade secrets.

22 MS. ROBBINS: I think there's some
23 confusion. You had asked him what legal advice
24 he could possibly have been seeking with respect
25 to some of the subject matters, some of the

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Han

specific subject matters in the E-mail, like tobacco extract, like denatured alcohol. What he told me and what he was trying to tell you was, quite apart from the general legal issues that I had explained to you, that any time he receives a question from the media or from anyone that touches on ingredients, he would go to a lawyer for legal advice, a lawyer in his company, Mr. Wall or Mr. Parrish, and that part of what he was doing when he attended those meetings that he is testifying about now was to get legal advice because some of the subject matters touched upon were ingredients. Again, apart from the larger legal considerations.

I guess I just don't understand what that has to do with a protective order. I mean, am I missing something?

MR. PAYTON: No. I was simply asking whether or not you were going to tell him that he should not respond to questions about the ingredient trade secret issues that came up in those meetings on February 24 and 25.

MS. ROBBINS: If there is any trade secret information that came up at those

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1 Han

2 meetings, you should alert me, and we will
3 designate that as trade secret here in this room
4 today, and it will be protected under our
5 stipulation and protective order as trade
6 secret.

7 Does that answer it, John?

8 MR. PAYTON: Yes.

9 Q. The information that you received on
10 the 24th and/or 25th of February that relates to
11 number 3 on the E-mail, which is reconstituted
12 tobacco, tobacco extracts, and whether tobacco
13 extracts contain nicotine, from whom did you
14 receive that information?

15 A. One of the same three or four
16 gentlemen.

17 Q. And did you also discuss with whoever
18 it was that was on the phone in Richmond number
19 2, which is William Dunne, and his memo and/or
20 statements about nicotine delivery systems?

21 A. No. Did I discuss that with somebody
22 over the telephone? Is that --

23 Q. Yes.

24 A. From Richmond?

25 Q. Yes.

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Han

A. The answer is no, I did not.

Q. Did you receive information on the 24th and 25th of February about number 2 there?

MS. ROBBINS: Factual information.

MR. PAYTON: Factual information.

MS. ROBBINS: If your response calls into question any of these meetings at which lawyers were in attendance.

A. Yes, I did get something of a refresher. But, Mr. Payton, understand that this story regarding Mr. Dunne pops up in the media every year. This was not the first time we had to deal with it.

Q. From whom did you receive the refresher?

A. Mr. Wall.

Q. And during these meetings on February 24 and 25, was there also discussion about whether or not Philip Morris artificially added nicotine to cigarettes?

MS. ROBBINS: Before you answer, again, you can testify to facts. That's what we have stipulated and agreed to, that you came to understand during the course of these meetings,

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1 Han

2 in which you formed your knowledge for purposes
3 of fulfilling your role as somebody who responded
4 to both ABC and the public generally. I say
5 again, we are talking about facts now; we are not
6 talking about legal advice given or any other
7 legal kinds of information.

8 A. Would you ask the question again?

9 Q. Yes. During these meetings, February
10 24 and/or February 25, was there also discussion
11 about whether or not Philip Morris artificially
12 added nicotine to its cigarettes?

13 A. Yes, sir.

14 Q. Can you tell me the content of those
15 discussions?

16 MS. ROBBINS: To the extent that they
17 involve facts that you learned, as we have
18 discussed many times here now, you can answer
19 those questions.

20 A. It was a short discussion. The
21 question was posed. The answer came back very
22 quickly: Philip Morris doesn't do that. I'm not
23 saying that those are the words, but, I mean, it
24 was a very straightforward and very short
25 conversation.

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1 Han

2 Q. Did this come up during this same
3 call to the person in Richmond? Was this all
4 discussed at the same time?

5 A. I believe it was.

6 Q. How is it possible to say that Philip
7 Morris doesn't artificially add nicotine to its
8 cigarettes if, in fact, Philip Morris was using
9 flavor packages that contained tobacco extract
10 which contained nicotine?

11 A. I think that -- well, first off, as I
12 said, they weren't doing that after 1993.

13 When I read this charge, I had little
14 doubt, no doubt, in my mind, anyway, what this
15 charge's intent was, and in that context it had
16 to be talking about quantities of some
17 significance. Through the course of these
18 conversations, I learned that the nicotine
19 present in the denatured alcohol and the nicotine
20 that was present in the flavor package, that was
21 untraceable in the final product.

22 Q. Mr. Han, I believe you told me
23 earlier today, I don't remember the exact time,
24 in connection with number 3, which is the use of
25 tobacco extract in reconstituted tobacco, that

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Han

you understood that tobacco extract did contain nicotine.

A. Yes.

Q. And I believe you then said, but it didn't have significant quantities of nicotine, and then you corrected yourself.

A. Yes.

Q. And I then asked you if you knew if tobacco extract had significant quantities of nicotine, and I believe you said you did not know. Do you recall this testimony?

A. I do recall. I believe that I said that I did not know how much.

Q. Okay. Are you changing that testimony now?

A. I haven't said anything different.

Q. I thought you just said that you learned that tobacco extract did not have significant quantities of nicotine in it just now.

A. I didn't think I said that.

MS. ROBBINS: He didn't say that. If you read his answer on the screen, I think you will see that that's not what he said.

1 Han

2 Q. You can just tell me what you said.

3 A. I would like to hear what was on the
4 screen then.

5 MS. ROBBINS: "Through the course of
6 these conversations --"

7 MR. PAYTON: Where are you?

8 MS. ROBBINS: This is page 162, line
9 12. "Through the course of these conversations I
10 learned that the nicotine present in denatured
11 alcohol and the nicotine that was present in the
12 flavor package, that was untraceable in the final
13 product."

14 Q. You think that's consistent with your
15 testimony that you didn't know how much nicotine
16 was in the tobacco extract?

17 A. Yes, sir. Am I missing something?

18 MS. ROBBINS: No, I don't think so.

19 A. Do you know what I mean by product,
20 final product?

21 Q. What do you mean by final product?

22 A. A cigarette.

23 Q. Yes.

24 A. Okay.

25 Q. What do you mean by untraceable in

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1 Han

2 the final product?

3 A. Can't be detected. That's my
4 understanding.

5 Q. Do you remember now if the discussion
6 that was had on February 24 and/or February 25
7 about the use of tobacco extract in any flavor
8 package was restricted to the brand Merit?

9 MS. ROBBINS: I object to the form of
10 your question.

11 Q. I'm asking if in the discussion about
12 Philip Morris' use of tobacco extract, that
13 discussion was focusing on the Merit cigarette
14 only, or was it trying to cover any cigarette or
15 brand that Philip Morris had ever used tobacco
16 extract in?

17 A. I don't know the answer to that.

18 Q. Was Merit mentioned in connection
19 with this discussion?

20 A. Yes, sir.

21 Q. And it was the only cigarette that
22 was mentioned?

23 A. Yes, sir.

24 Q. February 24 and/or February 25, at
25 that time were you aware or did you know whether

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1 Han

2 or not Philip Morris purchased reconstituted
3 tobacco sheet from any supplier?

4 A. Did I know that then?

5 Q. Then.

6 A. I didn't know that then; I don't know
7 that now.

8 MS. ROBBINS: You don't know one way
9 or the other?

10 THE WITNESS: No, I do not.

11 Q. I want to turn to your notes once
12 again. I will direct you to where we're going.
13 It is marked PA 426646, and the second
14 identifying number is 2023916649. It's a page
15 that has at the top "Options." Do you see that?

16 A. Yes.

17 Q. Take a look at this page for just a
18 second. I want to ask if you remember when you
19 would have made these notes.

20 MS. ROBBINS: If it helps, you can
21 certainly look at pages before or after. I don't
22 know whether that will help or not.

23 MR. PAYTON: Certainly. Anything
24 that helps you.

25 A. Well, I recognize this. I cannot

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1 Han

2 tell you exactly when I wrote it.

3 Q. Would it have been on one of these
4 two days, February 24 and 25?

5 A. I don't know. It could have been. I
6 don't know.

7 MS. ROBBINS: Let me just show you
8 that a few pages later there is a date March 7.
9 I don't know if that helps you, but I just am
10 pointing it out in an effort to be helpful.
11 Maybe it does and maybe it doesn't.

12 A. To be honest, I couldn't say with any
13 certainty about it.

14 MR. PAYTON: I think we have to take
15 a break now.

16 THE VIDEO OPERATOR: It is 3:12.
17 This is the end of Tape No. 2 of the deposition
18 of Victor Han. 3:12, and we are off the record.

19 (A recess was taken.)

20 THE VIDEO OPERATOR: Today is March
21 16, 1995. This is the beginning of Tape No. 3 of
22 the deposition of Victor Han. It is 3:29, and we
23 are back on the record.

24 BY MR. PAYTON:

25 Q. Mr. Han, I was asking you about this

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Han

page in your notes that is captioned "Options," has "Options" at the top of it. Have you had a chance to think about whether or not these notes relate to the meetings, discussions, that were taking place February 24-25?

A. I can't say that they were related to those meetings. I don't know that. I believe I just wrote down some options on my own as to what -- see, that's my problem. This could address other things, too. But my guess is that this addresses the Day One.

Q. Option number 1, it reads, "Steve or Chuck have conversation with reporter."

A. Yes, sir.

Q. Did I read that right? Who is Steve and who is Chuck?

A. Steve is Steve Parrish and Chuck is Chuck Wall.

Q. The two lawyers?

A. Yes, sir.

Q. They could talk to the reporter?

A. That was an option.

Q. Okay. Was there some reason why lawyers ought to speak to the reporter?

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Han

A. Well, as you can see, there are other ways of doing it as well, and it would be simply an issue of them having more factual knowledge about ingredients issues. So they would -- well, that's the case.

Q. Number 2 says, "KD," I take it that's Karen Daragan --

A. That's correct.

Q. Or you, VH, "deliver this info verbally." I take it that would be you talk to the reporter?

A. Based on information that would be provided to us.

Q. Based on information that you would get?

A. Yes.

Q. You would then turn around and talk to the reporter; is that it?

A. Yes.

Q. 3 is "Fax as statement or letter," that's prepare a statement, which would be the same as or different from 1 or 2 but in a written form? Would it be the same information?

A. I don't know whether it would have

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Han

been the same information.

Q. And 4 is "No comment on basis of proprietary info/trade secret." Did I read that accurately?

A. Yes.

Q. I can't read the -- can you read the last line down there?

A. The one without the number?

Q. Yes.

A. "All ingredients in cigarettes are reported to the Department of Health and Human Services on an annual basis as prescribed by law."

Q. When was the decision made to draft a statement?

A. I have a hard time pinpointing when that decision was made. But I would say it was after -- obviously, certainly before the time we faxed the statement and sometime after the 24th.

Q. Sometime on the 24th or 25th?

A. Yes, sir.

Q. And were you asked or expected to come up with a first draft?

A. Yes.

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Han

Q. And you prepared your first draft after you had had at least some of these telephone calls and/or meetings?

A. Yes.

Q. So that you could get some of the information that you needed?

A. When I was taking part in those meetings and the speakerphone conversations, I was not there, in my mind, gathering information so I could write a statement. I did, however, gather information that I was able to use to write a statement later.

Q. I want to raise a different issue now. I'm not sure if it's in this same time frame, but if it is, I think we ought to go into that, too. I have seen in documents that I believe were produced out of your file, I believe your personal file, some documents that relate to denatured alcohol, alcohol denatured with nicotine, as well as some documents that relate to some form of a reconstituted tobacco process. Do you know what I'm referring to? It's a chart that says BL process.

MS. ROBBINS: The chart you marked

1 Han

2 yesterday?

3 MR. PAYTON: Yes.

4 MS. ROBBINS: Do you want to just
5 show it to him, and then he can answer your
6 question?

7 Q. Did you recognize what I was talking
8 about from my description?

9 A. I believe so.

10 MS. ROBBINS: The only reason, John,
11 that I think you should show it to him, if I'm
12 thinking of the correct document, it was many
13 pages, and I remember the chart but I don't
14 remember what was in the other pages, and I think
15 you really ought to show it to him.

16 MR. BOOKER: It could be 21. It
17 could be 17. It's either 17 or 21, I think.

18 MR. PAYTON: You can mark this.

19 EXB (Han Exhibit 9 for
20 identification, document entitled "BL Plant Flow
21 Diagram," with attachments.)

22 Q. Mr. Han, I have had marked as the
23 next Han exhibit a set of materials that I
24 believe were produced from your file. They start
25 with a number that is PA 426676. It also has a

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Han

number 2023916678. And there is a collection of things, from a chart, two charts, list of patents relating to reconstituted tobacco, something from the Code of Federal Regulations, and then some materials that I believe relate to denatured alcohol.

Have you had a chance to review these?

A. I had a look at them, yes.

Q. What are they?

A. Well, these two documents are the same. One is just a Xerox reduction. It is a flow chart of the blended leaf process.

Q. I'm sorry, I didn't mean to ask you that specific a question. Are these documents that you received during this period, February 24-25?

A. No, sir.

Q. When did you receive these?

A. I cannot speak to all of the documents. I know, for example, that this document I received --

Q. This document is the chart?

A. The chart I received during a tour of

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1 Han

2 the Richmond facility that I took along with our
3 attorneys sometime --

4 MS. ROBBINS: Just give him your best
5 recollection.

6 A. Sometime in March.

7 Q. After this, March of '94?

8 A. Yes, sir.

9 Q. Let me just ask you a general
10 question and then ask you to take a look through
11 these documents and tell me if any meet this
12 description. I would like you to look and see if
13 any of these documents in this exhibit were in
14 your possession at the February 24-25 time
15 frame.

16 A. I don't believe so. I don't believe
17 so.

18 Q. Including the ones at the end, not
19 the very end, that relate to denatured alcohol?

20 MS. ROBBINS: Can you give us a Bates
21 number?

22 MR. PAYTON: Yes, it is Bates number
23 PA 426599, or 2033916337. I'm showing it to
24 you.

25 A. I don't recognize the document. I

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1 Han

2 don't know that I had it at that time.

3 Q. Then you can put those back together
4 and just set them aside, because I did not know
5 when these came into your possession.

6 A. I know when this came into my
7 possession.

8 Q. That came into possession after this,
9 you know?

10 A. Yes.

11 Q. And the others --

12 A. My belief is that I did not have them
13 until later, but I don't know.

14 Q. You prepared a draft statement that
15 you testified earlier included specific responses
16 to the three numbered items in the E-mail. I'm
17 just bringing us to where we are. That's
18 correct, isn't it?

19 A. Yes, sir.

20 Q. Do you know why the decision was made
21 to delete the specific responses to those
22 numbered items?

23 A. I recall that when it was reviewed at
24 least one person suggested that we should take
25 those specific references out, and after some

Han

discussion and consideration, I think we all agreed to do so. I can't recall what that individual was concerned about, but I do know that after discussing it with her, I realized it was a good idea. The reason being that, given -- given several things. First, it was apparent that as of February 24, the piece that ABC -- Day One was working on was, for all intents and purposes, it appears to me, to have been finished. Number two, I realized it was strange that we weren't -- he just said that -- Mr. Bogdanich simply said that they are going to charge that cigarette companies are artificially adding nicotine to cigarettes rather than naturally -- well, using tobacco leaf. But we weren't asked about that, at least based on this E-mail.

And then the experience that RJR had recounted to me furthered my concern that certain things might be taken out of context. As a result, we could deny the charge, address, say, for example, denatured alcohol, and I could see how a reporter would say that while Philip Morris says they do not spike cigarettes with nicotine,

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1 Han

2 they admitted to us, being a key word, admitted
3 to us, that they use denatured alcohol that
4 contains nicotine. Which makes it sound like
5 we're lying.

6 My preference was to address the
7 charge itself, the significant charge. These
8 came very clear to me to be, again, as I said
9 before, mere subsets of that charge.

10 Q. You thought that the responses to
11 these three items might be misused; is that
12 what --

13 A. It is exactly what I just explained,
14 yes, sir.

15 Q. Did you consider providing the
16 information, the response to these three items,
17 on background to the reporter?

18 A. I don't recall if we did, or if I
19 did. I don't recall. I don't recall.

20 Q. Would that have alleviated your
21 concern about the information being misused?

22 A. It would not necessarily alleviate
23 that concern.

24 I'd like to ask you a question, if
25 your understanding of background is the same as

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Han

mine.

Q. Well, I think it would be helpful if you gave us your understanding of the word "background," so that your answer is then fully understood.

MS. ROBBINS: Maybe you could restate your question, giving him a definition of "background" so he can respond.

MR. PAYTON: No, no.

Q. You deal with the media. You have provided information on background before?

A. Yes, sir.

Q. And what's your understanding of what that means?

A. On background is they can use the information. They cannot attribute it to the individual who is giving it to them. They can, however, attribute it to, for example, and this sometimes is agreed upon, someone close to the industry, somebody close to Philip Morris.

Q. And my question about whether or not providing the information on background, whether or not that would have alleviated your concern about the information being misused, is it allows

1 Han

2 you some means of distancing yourself, Philip
3 Morris, from the information, so that when you
4 said the word "admitted" could be used, you could
5 avoid that use of that word?

6 A. Well, I don't know that --

7 Q. You could negotiate that, can't you?

8 A. Sometimes yes and sometimes no.

9 Q. You don't remember whether it was
10 considered, though?

11 MS. ROBBINS: Asked and answered.

12 A. I cannot recall.

13 Q. Is there another category of
14 information that you can provide called deep
15 background? Are you familiar with that term?

16 A. I'm familiar with it.

17 Q. What does that term entail?

18 A. I don't use it. I'll either go --
19 we'll go on background or we'll go off the
20 record.

21 Q. And off the record means that they
22 can't even say it's someone close to the industry
23 or someone --

24 A. Can't use it.

25 Q. Did you consider providing this

1 Han

2 information off the record?

3 A. I don't recall.

4 Q. And would that have alleviated your
5 concerns?

6 A. I'm not sure that it would have.

7 Q. How could the information provided
8 off the record have been misused?

9 A. The information that would be
10 provided to the reporter off the record,
11 obviously the reporter can then go around having
12 that information and trying to find somebody else
13 to corroborate it, and then he can go on the
14 record through the other person.

15 You know, I'm trying to think back.
16 Obviously, off the record, background, you know,
17 that's just a normal checklist of things. I
18 don't have a specific memory of it, but it's not
19 something you skip. Well --

20 Q. It's not on this option list, is it?

21 A. No, it's not.

22 Q. Earlier we talked about number 3 on
23 here, which is the reconstituted tobacco in
24 cigarettes. I'm back in our little two-day
25 period, February 24-25, those two days. What did

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1 Han

2 you understand the reconstituted tobacco process
3 to be then?

4 A. The 24th and the 25th?

5 Q. Yes.

6 A. I believe that I knew it as a
7 papermaking process. I don't know that I knew
8 much more about it than that.

9 Q. And when you say papermaking process,
10 can you say more than that? Can you describe
11 what you mean when you say that?

12 A. Only that the stems and small pieces
13 of tobacco were used to make a sheet. As to how
14 it got from the stems and pieces of tobacco to a
15 sheet, I did not know the specific steps that
16 that went through.

17 Q. Did you understand that the
18 reconstituted tobacco sheet process itself
19 extracts solubles from the tobacco products in
20 the process and later in the process can put
21 those solubles back onto the sheet?

22 MS. ROBBINS: I'm going to object to
23 the form of the question.

24 Q. You can answer that.

25 A. Would you repeat it again?

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Han

Q. Did you understand that the reconstituted tobacco sheet process extracts solubles from the tobacco products, the stems and the dust that you just described, and then later in the process may put those solubles back onto the sheet?

MS. ROBBINS: I still object. You can answer.

A. I cannot tell you with certainty exactly what time period that I came to understand that. But it was in and around this time period that I did.

Q. Did you understand the solubles in that process to be a tobacco extract?

A. No, sir.

Q. So when you were answering some questions earlier about the use of tobacco extract in connection with reconstituted tobacco, you were thinking of something done after this process is complete?

MS. ROBBINS: I object to the form of the question.

A. I'm not sure I understand that question.

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1 Han

2 Q. I think it's because I'm not sure
3 what you were saying before, so I'm a little
4 confused, too. So just bear with me and let me
5 see if I can get to this.

6 Earlier I asked you, in connection
7 with question 3, number 3 here, "Does Philip
8 Morris use reconstituted tobacco in cigarettes?"
9 The answer was yes. "If so, do we treat it with
10 tobacco extract?" Do you see that?

11 A. Yes.

12 Q. And I was asking you just now whether
13 or not you understood the reconstituted tobacco
14 process to yield a tobacco extract in part of its
15 process and then put that extract back onto the
16 sheet.

17 A. That is not what I interpreted
18 tobacco extract to be.

19 Q. What did you interpret it to be?

20 A. I interpreted it to be something that
21 was created nowhere near the reconstituted
22 tobacco process. I mean, I don't know what it
23 looks like, I've never seen it, but I just
24 considered it to be this thing that you could
25 purchase someplace, perhaps, and use it in some

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1 Han
2 fashion or another, but not part of the
3 reconstituted tobacco process.

4 Did that make any sense?

5 Q. I think I understand what you're
6 saying.

7 A. Okay.

8 Q. That outside of the reconstituted
9 tobacco process, did Philip Morris use tobacco
10 abstract, that's what you understood 3 to be
11 about? You can look at 3.

12 MS. ROBBINS: But that's also not
13 what he just testified to.

14 MR. PAYTON: I'm asking him if that's
15 what he understood number 3 to be asking about.

16 MS. ROBBINS: Are you asking about
17 all three parts of number 3 put together? I've
18 lost you now, John.

19 MR. PAYTON: A and B, 3 A and B.

20 MS. ROBBINS: What is the question?

21 Q. Whether you understood those to mean
22 to ask whether or not Philip Morris, outside of
23 the reconstituted tobacco process, used tobacco
24 extract.

25 MS. ROBBINS: This is the time that

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2 he read the E-mail, what was his understanding of
3 what the E-mail said?

4 MR. PAYTON: Yes.

5 MS. ROBBINS: If you had an
6 understanding, then you can answer it, at the
7 time you read it.

8 A. My understanding of number 3 at that
9 time was, as I said before, I had never heard of
10 tobacco extract so I didn't know what it was, but
11 that it was something that could be purchased and
12 then applied to something, as opposed to being
13 part of a process.

14 Q. During this two-day period, February
15 24 and/or February 25, did someone explain to you
16 what tobacco extract was?

17 A. I do not believe I got a specific
18 definition about tobacco extract. It was, I
19 believe, described to me in terms of tobacco
20 extract being part of a flavor package that used
21 to be purchased.

22 Q. With regard to number 2 on the
23 E-mail, which relates to Dr. Dunne, did Philip
24 Morris agree or disagree with Dr. Dunne?

25 MS. ROBBINS: What did he know about

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1 Han

2 that at the time of the 24th and the 25th, is
3 that the question?

4 MR. PAYTON: 24th and 25th, yes.

5 A. I'm not sure I understand what Philip
6 Morris would be agreeing to or not agreeing to.

7 MS. ROBBINS: You are talking about
8 the quote, John?

9 MR. PAYTON: Yes, the quote.

10 Q. "You must not think of cigarettes as
11 a product. Think of it as a package like a
12 nicotine delivery system/storage pack for
13 nicotine."

14 A. What are you asking, whether -- what
15 is it that you are asking Philip Morris agrees or
16 disagrees with?

17 Q. With that description of cigarettes.

18 A. Oh, that it's a nicotine delivery --

19 Q. Yes.

20 A. Oh, I see.

21 Q. I'm sorry, there is no mystery here.

22 A. Well, no. The answer is no, because
23 I mean, my understanding of that quote from Mr.
24 Dunne, back in 1972 or whenever it occurred, was
25 that he was proposing a hypothesis upon which one

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1 Han

2 could base further research into why people
3 smoke. So, I mean, I don't see where there's an
4 agreement or disagreement on that particular
5 issue, by the company, I mean.

6 Q. So you didn't know if Philip Morris
7 agreed or disagreed with what Dr. Dunne was
8 saying?

9 A. Again, I don't know what there is to
10 agree to or not to agree with, because my
11 understanding of Mr. Dunne's comment was that he
12 was proposing a hypothesis upon which to base
13 further research. So...

14 Q. I asked you earlier who had suggested
15 the deletion of the specific responses to the
16 numbered items in the E-mail, 1, 2 and 3, and I
17 believe you said that -- you made a reference to
18 a woman, who had her.

19 A. Yes.

20 Q. Who was it?

21 A. It was Ms. Linehan, I believe. I
22 don't know if there were others. I can't recall
23 if there were others.

24 Q. Who is Ms. Linehan?

25 A. In the Washington, D.C. office.

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Han

Q. Can you spell her name?

A. L-i-n-e-h-a-n.

Q. I don't remember if I asked you this this morning, and I apologize if I did. Did you keep drafts of your original statement, copies of your original statement?

MS. ROBBINS: Copies of the draft, the earlier drafts?

MR. PAYTON: Yes.

MS. ROBBINS: You did ask him, but I will allow him to answer it again.

A. I don't know. If I did, they would have been in my files. Also, with computers, I might have just deleted part of it and edited it on the computer. I don't know.

Q. Let me go to the end of this process. The end of this process is this statement, is that right, that is, you come up with a draft, it is edited, comments, but the end of the process is this statement?

MS. ROBBINS: What do you mean by the process? You mean just including writing the statement?

MR. PAYTON: I'm trying not to get

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1 Han

2 into everything that's going on.

3 Q. February 24-25, some part of it is
4 devoted to coming up with a statement to respond
5 to the inquiry from Day One that's received on
6 the 23rd of February, that's reflected in the
7 E-mail that is dated the 24th? That's yes?

8 A. Yes, sir.

9 Q. And the end of that process, coming
10 up with a response, is this statement, which is
11 the February 25 two-paragraph statement?

12 A. Yes, sir.

13 Q. And the cover memo on the exhibit
14 says "The attached is the approved statement."
15 Who is it that approved it?

16 A. Well, I certainly would have needed
17 to get approval from Mr. Parrish and from Mr.
18 Wall, and I know that I did. I don't know that
19 they showed it to other people.

20 Q. So they are the approvers that you
21 know of?

22 A. Final clearance, yes, sir. For me,
23 anyway. Again, I don't know that they might have
24 showed it to somebody, too.

25 Q. "Attached is the approved statement

1 Han

2 that was faxed to ABC's Day One this afternoon."
3 Am I right that it was Ms. Daragan who faxed this
4 to ABC?

5 A. I believe that's correct.

6 Q. And do you recall having a
7 conversation with Ms. Daragan about this
8 statement?

9 A. I do not have a specific recollection
10 of discussing this statement with her.

11 Q. Do you remember whether or not she
12 thought initially, at least, that the statement
13 was not responsive to the E-mail, to the
14 request?

15 MS. ROBBINS: I think you are
16 mischaracterizing her testimony.

17 MR. PAYTON: I said initially.

18 MS. ROBBINS: I understand that. I
19 still think you are. I object to your question.

20 A. I don't have a recollection, one way
21 or the other.

22 Q. Do you remember having a conversation
23 with her in which you explained to her why the
24 E-mail is responsive?

25 MS. ROBBINS: You don't mean the

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Han

E-mail there.

MR. PAYTON: I'm sorry. I will do it again. Thank you.

Q. Do you remember having a conversation with Ms. Daragan in which you explained to her how the statement was responsive to the E-mail?

MS. ROBBINS: I object to your question.

A. I do not have a specific recollection, one way or the other.

Q. The next line on the cover memo here, the February 25 memo, reads, "We will not be answering any questions and do not intend to provide any further information." Is that unusual?

A. I don't know whether it's unusual. It's something that can happen in certain circumstances and might not happen in other circumstances.

Q. Not necessarily, you're saying?

A. Not necessarily. I mean, when you issue a written statement, that's generally all you're going to provide, which is the reason for a written statement.

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Han

Q. February 25 was also the day that the FDA Commissioner, David Kessler, issued or sent or released his letter about nicotine and cigarettes. Do you recall that?

A. That was a Friday?

Q. Yes.

A. Yes, sir.

MR. PAYTON: This is Exhibit 10.

EXB (Han Exhibit 10 for identification, fax transmission sheet dated February 25, 1994, to Vic Han, from David Nicoli, with attachments.)

Q. I have just handed you what's been marked as Han No. 10, which is a multi-page document that has number PA 100332, and a second identifying number, 2023913510. The first two pages are fact sheets. I understand from one of the fact sheets that the second two pages are a transcription of the third two pages -- the last three pages, transcription of the last three pages.

Have you seen these documents before, in this form?

A. Yes. I have, but what was that about

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Han

transcription --

Q. Sure. Let me go through it. The first page is a fax sheet.

A. Yes.

Q. And it is a fax sheet to you. The second page is a fax sheet from Covington & Burling, dated 2/25, and it is from David Remes to David Nicoli. Do you know who David Nicoli is?

A. David Nicoli, yes, sir.

Q. Who is he?

A. He's in our Washington, D.C., office.

Q. And the message says, "Attached is the FDA letter that B. Dawson received." Who is B. Dawson?

A. B. Dawson is Brennan Dawson of the Tobacco Institute.

Q. And then it says, "There is also attached a clean version which she retyped." And I have, therefore, concluded that the next two pages are the retyped version of the then following three pages.

A. Okay. I didn't realize it.

Q. Are you with me there?

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1 Han

2 A. Yes.

3 Q. Do you remember receiving this
4 document on February 25?

5 A. I remember receiving the document,
6 yes.

7 Q. Let me direct your attention to the
8 very last page. You will see that the letter
9 from David Kessler to Scott Ballin, Chairman of
10 the Coalition on Smoking or Health, is unsigned.
11 Do you see that?

12 A. Yes.

13 Q. Do you know how the Tobacco Institute
14 came to receive this letter in this form,
15 unsigned?

16 A. No, I don't. It's not that unusual
17 to receive documents before they're released. So
18 when we got this, this didn't exactly surprise me
19 that much.

20 Q. Had you seen other letters,
21 documents, from the Commissioner of the FDA
22 before they had been released or signed?

23 A. No, this was the only one that I had
24 seen.

25 Q. From the FDA?

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1 Han

2 A. From the FDA.

3 Q. And when you were just saying that it
4 wasn't unusual to see documents before they were
5 released, were you referring to documents from
6 agencies other than the FDA?

7 A. I was referring to documents produced
8 in Washington, D.C., by whatever bodies.

9 Q. Congressional bodies?

10 A. Congressional bodies. I mean, it's
11 not that it happens every day.

12 Q. Turn to the second page of what I've
13 referred to as the transcription. Do you see the
14 writing at the bottom?

15 A. Yes.

16 Q. Do you recognize that as your
17 writing?

18 A. Yes, I do. It looks like my
19 handwriting.

20 Q. Can you make out any of it?

21 A. I can only really read it looks like
22 the last three, which is "with the facts,"
23 f-a-c-t-s, or f-a-c-t. But I can't read the rest
24 of it.

25 Q. Do you remember if you knew this

1 Han

2 letter was going to be issued that day?

3 A. I know that I did not know that this
4 letter was going to be issued.

5 MS. ROBBINS: Before he saw this?

6 MR. PAYTON: Yes, before he saw
7 this.

8 A. No, I did not know.

9 Q. Was this letter, or this version of
10 this letter, the subject of any of the meetings
11 or discussions that you had on February 25, that
12 you have already testified about?

13 A. Yes, sir, I believe so.

14 Q. And do you recall what the discussion
15 about this letter was?

16 MS. ROBBINS: Well, wait a minute.
17 We are back to discussions that involved
18 attorneys.

19 THE WITNESS: Yes.

20 MR. PAYTON: We are.

21 MS. ROBBINS: And you are talking of
22 discussions of this letter had at any meetings.

23 MR. PAYTON: We are.

24 MS. ROBBINS: Anything that you
25 discussed about this letter at meetings at which

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1 Han

2 lawyers were present for the purpose of giving
3 legal advice or gaining information to be able to
4 give legal advice, I tell you do not testify to
5 it. If you had discussions outside of the
6 presence of attorneys, with other people, you can
7 certainly testify as to that.

8 A. I'm sorry. Could you ask the
9 question again?

10 MR. PAYTON: I need to take a break.

11 THE VIDEO OPERATOR: It is 4:17, and
12 we are off the record.

13 (A recess was taken.)

14 THE VIDEO OPERATOR: It is 4:23, and
15 we are back on the record.

16 MR. PAYTON: We have agreed to
17 continue this deposition to a time that we will
18 work out. So for today I want to thank you, Mr.
19 Han, for your patience and your interest. Thank
20 you.

21 THE WITNESS: Thank you.

22 THE VIDEO OPERATOR: It is 4:23.

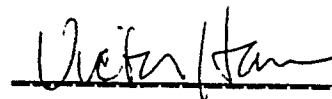
23 This is the end of Tape No. 3, and
24 this concludes today's taping of the deposition
25 of Victor Han. It is 4:23, and we are off the

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Han

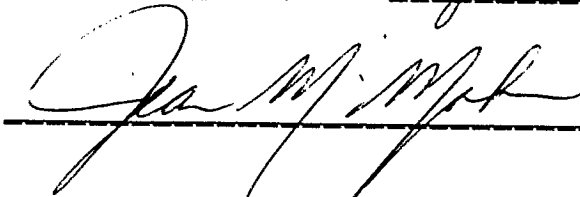
record.

(Time noted: 4:23 p.m.)



VICTOR HAN

Subscribed and sworn to before me
this 5th day of August, 1995.



JEAN M. MAHON
Notary Public, State of New York
No. 4812992
Qualified in New York County
Commission Expires SEP 30, 1996

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MANHATTAN REPORTING CORP.

Han

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, JACK FINZ, a Certified Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That VICTOR HAN, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of March, 1995.


JACK FINZ, C.S.R.

[Ngl]philip morris-han 3-16 **EXB**

PAGE 22 LINE 25

1 MATCH

22 25 **EXB** (Han Exhibit 1 for
2 identification, organization chart.)

==> PAGE 40 LINE 4 1 MATCH

40 4 **EXB** (Han Exhibit 2 for
5 identification, ten-page document, collection of
6 E-mails, production number 2024015018B.)

==> PAGE 55 LINE 2 1 MATCH

55 2 **EXB** (Han Exhibit 3 for
3 identification, pages from Mr. Han's notebook.)

==> PAGE 80 LINE 24 1 MATCH

80 24 **EXB** (Han Exhibit 4 for
25 identification, letter to Michael P. Eriksen,
2 from Stanley L. Temko, dated January 19, 1994.)

=> PAGE 81 LINE 3 1 MATCH

81 3 **EXB** (Han Exhibit 5 for
4 identification, letter to Stanley L. Temko, from
5 Michael P. Eriksen, dated December 10, 1993.)

=> PAGE 81 LINE 6 1 MATCH

81 6 **EXB** (Han Exhibit 6 for
7 identification, letter to Michael P. Eriksen,
8 from Stanley L. Temko, dated October 25 1983.)

=> PAGE 81 LINE 9 1 MATCH

81 9 **EXB** (Han Exhibit 7 for
10 identification, letter to Michael A. Miles, from

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11 Michael P. Eriksen, dated September 27, 1993.)

PAGE 113 LINE 2

1 MATCH

113 2 **EXB** (Han Exhibit 8 for
3 identification, two-page document, Philip Morris
4 interoffice correspondence, to a distribution
5 list, from Mr. Han, dated February 25, 1994, with
6 attachment.)

==> PAGE 173 LINE 19 1 MATCH

173 19 **EXB** (Han Exhibit 9 for
20 identification, document entitled "BL Plant Flow
21 Diagram," with attachments.)

==> PAGE 193 LINE 10 1 MATCH

193 10 **EXB** (Han Exhibit 10 for
11 identification, fax transmission sheet dated
12 February 25, 1994, to Vic Han, from David Nicoli,
13 with attachments.)

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[Ngl]philip morris-han 3-16 **EXB**

PAGE 22 LINE 25

1 MATCH

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